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ABSTRACT

The Commission on Security and Cooperation in Europe (CSCE) monitors and encourages human rights compliance by signatories of the Helsinki Final Act of 1975. Language pertaining to migrant workers is found in all major CSCE documents, and the examination of migrant farmworker issues represents part of the Commission's ongoing review of U.S. compliance with CSCE concerns. Five days of public hearings addressed: (1) farm labor market economics, demographics, living conditions, and the status of migrant farmworkers in the United States; (2) health and safety, including effects of pesticides; (3) children's issues, including education and day care; (4) women's issues; and (5) possible solutions to problems facing farmworkers and their employers. The Commission's recommendations cover reform and enforcement of labor laws (including those covering children), provision and coordination of human services, enforcement of occupational health and safety laws and regulations, and increasing access to education and day care. Among the numerous appended documents are a description of the extent of child agricultural labor and its impact on children's health and education; an overview of Office of Migrant Education programs; the Interstate Migrant Education Council's views of the need for full funding, coordination of programs, and centralized advocacy related to migrant education; and a statement of an elementary school principal and former migrant child about his life and motivations and the successes of his school with migrant students. (SV)

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ED 365 486

IMPLEMENTATION OF THE HELSINKI ACCORDS

MIGRANT FARMWORKERS
IN
THE UNITED STATES

U.S. DEPARTMENT OF EDUCATION
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UD 019 433

Briefings of the
Commission on Security and Cooperation in Europe
Washington, DC

May 1993

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PREFACE

The Commission on Security and Cooperation in Europe is mandated by law to monitor and encourage human rights compliance by signatories of the Helsinki Final Act of 1975. The Commission is composed of nine Senate members, nine House members and three presidential appointees from the Departments of State, Commerce and Defense. The Helsinki Commission issues reports, holds hearings, organizes bipartisan Congressional delegations to examine CSCE issues in participating states and participates on the U.S. delegation to all CSCE meetings.

In November 1979, the Commission published a comprehensive domestic compliance report entitled - Fulfilling Our Promises: The United States and the Helsinki Final Act. The Commission undertook the project for numerous reasons. First, it believes that the United States should work with other signatory nations to identify and acknowledge problems within our respective societies and attempt to find solutions to those problems. Second, as the Final Act encourages multilateral scrutiny of each state's implementation of CSCE principles, self-examination increases the credibility of the United States to raise concerns regarding non-compliance by other states. Finally, the Commission is often called upon to respond to charges of U.S. non-compliance and the 1979 domestic compliance report has served as a useful data base. This report was subsequently updated in 1981, and was the subject of Commission hearings. Additionally, the Commission has examined U.S. visa laws as well as facilitated access by Soviet doctors to examine a U.S. prisoner alleged not to be receiving proper medical care. In August 1990, the Commission published a report entitled "Homelessness in the United States." This report was a comprehensive and critical look at problems of homelessness in America and was in part a response to sharp criticism from Warsaw Pact members made during CSCE meetings. The examination of migrant farmworker issues represents another segment of the Commission's ongoing review of U.S. compliance with CSCE concerns and was undertaken with similar considerations in mind.

Language pertaining to migrant workers is found in all major CSCE documents. In July 1992, the United States joined 51 other nations in promising to abide by the Helsinki Document, adopted at a summit of Heads of State and Government. The meeting was notable as the first large-scale CSCE follow-up meeting since the collapse of the communist regimes in Eastern Europe and the Soviet Union and included more than a dozen new participating States. The Helsinki Document pronounces that "human rights and fundamental freedoms are universal, that they are also enjoyed by migrant workers wherever they live . . . " Participating States would seek to "create the conditions for promoting equality of opportunity in respect of working conditions, education, social security and health services, housing, access to trade unions as well as cultural rights for lawfully residing and working migrant workers."

Additionally, last month a CSCE conference convened in Warsaw, Poland to examine migration issues. At this meeting, participants from over 40 states examined various aspects of economic induced migration. Another CSCE forum focussing specifically on migrant labor issues is expected to convene sometime in 1994. While the status and character of European and United States migrant workers are vastly different, many of the problems facing both populations stem from basic socio-economic and political factors. But what is common to both is the need for greater governmental involvement and commitment to addressing the problems facing these growing populations.

The first stages of the Commission project on migrant labor were initiated in December 1991 as staff fact-finding missions to agricultural regions of the American South and West. On these visits, staff members met State, Federal and local officials, farmworker advocates, service providers, legal assistance groups, farmworkers and employers. Labor camps, health, housing and other facilities utilized by migrant farmworker families were examined.

The second stage of the Commission project was a series of public briefings examining specific segments of the farmworker population and areas of concern in order to raise public awareness of the critical problems encountered by migrant and seasonal farmworkers and their families. Over the course of five days of public hearings the Commission: presented an overview of farm labor economics, demographics and living conditions and examined relevant government operated programs; focussed upon health and safety areas, including the effects of pesticides on agricultural labor and consumers; highlighted farmworker children's issues, including education and daycare; studied the difficult challenges facing farmworker women and their families; and, explored possible strategies for addressing problems facing farmworkers, their families and their employers.

This report is a compilation of those proceedings, written statements and other materials submitted for the record over the course of the briefings and during the fact-finding missions. The following recommendations reflect discussions conducted during the briefings and research undertaken during the Commission's examination. In bringing attention to the problems facing farmworkers and their employers, it is the Commission's hope that both the public and government will join together to alleviate the suffering and injustices that permeate migrant farmworker communities. The recommendations are neither comprehensive nor exclusive, but are put forward as guidelines that at a minimum seem critical to any serious attempt to redress circumstances that economically imprison farmworkers and their families, and strip them of their human dignity.

RECOMMENDATIONS

While identification of problem areas has been a goal of the Commission briefings, a more primary objective has been to elicit possible solutions to problems facing migrant farmworkers. Recommendations offered throughout the course of the briefings address a wide array of concerns. Panelist statements and materials submitted in the appendixes provide a litany of suggested solutions and strategies. And while many of the suggestions would likely have a positive impact on the situation, their implementation remains dependent upon political will and a concordant commitment of resources to see that such reforms are effectively enacted.

The following recommendations reflect panelist proposals and the discussions of problems raised during the Commission briefings.

REFORM AND ENFORCEMENT OF LABOR LAWS

1. Federal and state governments must strictly enforce existing laws designed to protect farmworkers.

2. Agricultural employers who utilize farm labor contractors should be held liable for violations by those contractors of the Migrant and Seasonal Agricultural Protection Act and other relevant laws and regulations.

3. Higher fines should be levied against growers and contractors who violate the Migrant and Seasonal Agricultural Protection Act. Prison terms should be mandated for repeat offenders.

4. Federal and state licensing procedures for farm labor contractors should be changed to make it impossible for repeat violators to resecure licenses and continue to abuse workers. Conspiring with other persons, including family members, to evade licensing restrictions should be made a criminal violation.

5. Farmworkers and their family members who seek information about their rights or help in defending those rights must be protected from retaliation by employers.

6. The H-2A and H-2B visa programs, which enable agricultural employers to import temporary foreign workers into the United States, should be discontinued because domestic workers are displaced and foreign workers have been subject to abuse. If the program is to continue, the Department of Labor must be required to improve enforcement of existing protections and revise policies to prevent future abuses.

7. Farmworkers should receive protection for organizing and be allowed to bargain collectively. Like other U.S. workers, these protections should be mandated by law.

8. The Fair Labor Standards Act, which establishes minimum wage and overtime protection, should be amended to provide the same coverage and rights to farmworkers as are provided to other workers.

9. Civil money penalties collected by the Department of Labor for violations of the Migrant and Seasonal Agricultural Protection Act should be used for programs which assist migrant farmworkers and their families.

10. Government enforcement personnel should inspect migrant housing before and during each season. Governments should offer incentives to growers, contractors, and local communities to provide decent housing for migrant and seasonal farmworkers.

COORDINATION AND PROVISION OF SERVICES

1. Efforts must be made to eliminate discrimination and remove cultural barriers that prevent migrant farmworkers from benefiting from social, health and other services available in the communities where they work. One way to accomplish this is for relevant organizations at all levels to hire multi-lingual personnel.

2. Farmworkers should be provided with information about their rights and benefits under the law in a language that they understand.

3. A federal interagency office should be established to coordinate the development and implementation of programs serving farmworkers and growers. Accomplishing this goal will require high-level federal leadership and political will.

4. Federal, state and local officials should work together more closely, especially in coordinating enforcement activities.

5. The U.S. Department of Labor should establish national and regional databases to collect information on farmworker populations. Such databases could help local, state and federal governments direct services to farmworkers more efficiently and make enforcement efforts more cost effective.

6. Innovative funding strategies and incentives should be developed at all levels of government so that groups and individuals can more easily provide housing and other facilities for migrant farmworkers and their families.

HEALTH AND SAFETY

1. Persons who risk lives by transporting farmworkers in unsafe vehicles or in an unsafe manner (e.g., overcrowding vans, removing seats, or driving while intoxicated) should face stiff penalties. Vehicles used to transport farmworkers must be properly insured and regularly inspected.

2. Migrant farmworkers' access to health care should be expanded. This includes access to health care facilities and providers and health insurance coverage.

3. Famrworkers should have the legal right to know what pesticides are used at their workplace. Currently, there is no comprehensive federal right-to-know for farmworkers.

4. Federal and state governments should strictly enforce laws and regulations governing the use and application of pesticides and field reentry intervals. Integrated pest management strategies should be developed further as alternatives to using pesticides.

5. Workplace health and safety laws and regulations, such as the field sanitation standard, must be strictly enforced.

FAMILIES AND EDUCATION

1. The Fair Labor Standards Act must be amended to provide the same protection to farmworker children as that afforded other children under the Act.

2. Government educational agencies and school systems should develop ways to make it easier for migrant children to register and attend schools in each community to which their family travels to work.

3. School administrators and staff should make greater efforts to integrate migrant children into classes and other school activities.

4. Greater efforts, at all levels of government and among employers, must be taken to provide adequate daycare for migrant children.

In Memoriam:

CESAR CHAVEZ, tireless fighter on behalf of promoting human rights and protecting human dignity for all farmworkers and heroic leader of *la lucha*, the struggle.

1927-1993

CONTENTS

Preface iii
Recommendations v
In Memoriam ix

Monday, July 20, 1992

STATUS OF MIGRANT FARMWORKERS IN THE UNITED STATES

John Fraser, Deputy Administrator of the Wage and Hour Division, Employment Standards Administration, Department of Labor 3
Dr. Ed Kissam, former Director, Farm Labor Supply Study, Department of Labor 9
Roger Rosenthal, Executive Director, Migrant Legal Action Program .. 14
Carlos Marentes, Director of the Border Agricultural Workers Union, El Paso, TX 21
Dave Cavenaugh, Policy Research Specialist, National Association of Community Health Centers 22
Lori Rottenberg, Association of Farmworker Opportunity Programs 23
Pharis Harvey, International Labor Rights Education and Research Fund 24
Andrew Green, Correspondent, Mexico City News 29
John Linfield, Housing Assistance Council 31

Friday, October 9, 1992

HEALTH AND SAFETY OF MIGRANT FARMWORKERS

Dr. Marilyn Gaston, Assistant Surgeon General and Director of the Bureau of Primary Health Care of the Department of Health and Human Services 41
Louis True, Jr., Senior Advisor to the Director of Environmental Protection Agency, Office of Pesticide Programs 44
David Duran, Chairman, National Advisory Council on Migrant Health 46
Dr. Ed Zuroweste, Chairman, Migrant Clinicians Network and Medical Director, Keystone Migrant Health Clinic, Chambersburg, PA 48

Page

Valerie Wilk, Farmworker Justice Fund 51
Dr. Marilyn Gaston, Assistant Surgeon General and Director of the Bureau of Primary Health Care of the Department of Health and Human Services 56
Lori Rottenberg, Association of Farmworker Opportunity Programs 60
Michael Hancock, Farmworker Justice Fund 62
Helen Johnston, Migrant Health Program 64
Ann Misch, World Watch Institute 65
Sharon Yandy, Migrant Head Start Program, Department of Health and Human Services 65
Diana Steele, Pacifica Radio 66
James Boland, Deputy Chief, Occupational Safety Branch, Environmental Protection Agency 66
Freda Mitchum, National Association of Community Health Centers 69
Jack Egan, Migrant Health Program 71
Sister Adela Gross, U.S. Catholic Conference 72
Alex Becerra, National Council of La Raza 72
Pat Hogan, Office of Migrant Education, Department of Education 73
Dr. Mary Zalar, past Vice President of the American Medical Women's Association 75

Friday, February 19, 1993

MIGRANT FARMWORKER CHILDREN

Dr. Frank Corrigan, Director, Office of Migrant Education, Department of Education 78
Senator John D. Perry, Senior Project Consultant, the Interstate Migrant Education Council 81
William Gross, Acting Assistant Administrator for Programs Operations, Wage and Hour Division, Department of Labor 87
Hazel Filoxsian, Director, Migrant and Immigrant Assistance Center, Fort Pierce, FL 90
Wendall Rollason, Executive Vice President of the Redlands Christian Migrant Association, Immokalee, FL 93
L. Diane Mull, Executive Director of the Association of Farmworker Opportunity Programs 96
Delores Huerta, United Farm Workers Union 103
Bruce Goldstein, Farmworker Justice Fund 105
Bea Bobatec, Migrant Legal Action Program 106
Sister Adela Gross, U.S. Catholic Conference 110
Leon Johnson, Chairman, Governor's Commission on Migratory and Seasonal Farm Labor in Maryland 111
Dr. Mary Zalar, past Vice President of the American Medical Women's Association 113

Page

Monday, March 1, 1993

Farmworkers Women's Issues

Emma Torres, National Farmworker Womens' Advocacy Council 116
Leticia Maravilla, National Farmworker Womens' Advocacy Council ... 117
Trini Gamez, National Farmworker Womens' Advocacy Council 118
Hazel Filoxsian, Director, Migrant and Immigrant Assistance Center, Fort Pierce, FL 118
Catalina Broyles, National Farmworker Womens' Advocacy Council ... 120
Irma de Anda, National Farmworker Womens' Advocacy Council 121
Valerie Wilk, Farmworker Justice Fund 122
Blanca Moreno, National Farmworker Womens' Advocacy Council, Apopka, FL 122
Marina Macias, National Farmworker Womens' Advocacy Council, California 122
Dora Barreras, National Farmworker Womens' Advocacy Council, Washington State 122
Pang Sirirathasuk, National Farmworker Womens' Advocacy Council, Pennsylvania 122
Vicenta Velasquez, National Farmworker Womens' Advocacy Council, Toledo, OH 122
Carmen Jimenez, National Farmworker Womens' Advocacy Council, Puerto Rico 122
Margarita Diaz, National Farmworker Womens' Advocacy Council, New Jersey 122

Thursday, April 8, 1993

Possible Solutions to Problems Facing Farmworkers, Their Families, and Their Employees

Arcadio Viveros, Mayor of Parlier, CA 131
Encarnacion "Chon" Garza, Principal, Ringgold Elementary School, Rio Grande City, TX 135
Robert A. Williams, Florida Rural Legal Services, Inc. 139
Sharon Hughes, National Council of Agricultural Employers 143
Gloria Hernandez, California Rural Legal Assistance Migrant Farmworker Project 145
L. Diane Mull, Executive Director of the Association of Farmworker Opportunity Programs 153
Lori Rottenberg, Association of Farmworker Opportunity Programs 153
Bruce Goldstein, Farmworker Justice Fund 158
Lawrence Worthington, State Monitor Advocate for the State of Maryland 164
Laura Germino, Florida Rural Legal Services, Inc. 168
Paula Soper, student, Trinity College, Washington, DC 167
Wendy Madigoski, student, Trinity College, Washington, DC 167
Recommendations 169

Page

APPENDIXES

APPENDIX 1. CSCE INFORMATION ON MIGRANT LABOR

Statement of Ambassador Samuel G. Wise, U.S. Delegation to the Helsinki CSCE Follow Up Meeting, June 5, 1992 171
Excerpts from CSCE documents pertaining to migrant labor 174

APPENDIX 2. GENERAL CONDITIONS AND LABOR ISSUES

Carlos Marentes, statement, photographs 181
Ed Kissam, statement 199
Ed Kissam. "Formal Characteristics of the Farm Labor Market: Implications for Farm Labor Policy in the 1990's." 209
Administrative Conference of the United States, Recommendation 92-4. "Coordination of Migrant and Seasonal Farmworker Service Programs." June 19, 1992 228
Housing Assistance Council, statement 231
American Farm Bureau Federation, statement 234

APPENDIX 3. HEALTH AND SAFETY ISSUES

Dr. Marilyn Gaston, Assistant Surgeon General, statement 239
Dr. Ed Zuroweste, Migrant Clinicians Network, statement 245
David Duran, National Advisory Council on Migrant Health, statement 247
Valerie A. Wilk, Farmworker Justice Fund, statement 250
Farmworker Health for the Year 2000: 1992 Recommendations of the National Advisory Council on Migrant Health 258
Office of Migrant Health, Department of Health and Human Services, "Accessing the Migrant Health Program: A Guide for Health Care and Social Service Providers." 305
Migrant Clinicians Network. Monograph Series. "Profile of a Population with Complex Health Problems." By G.E. Alan Dever. 1991. .. 309
National Association of Community Health Centers, Inc., NACHC 1993 Policy Position: Migrant Health Program 325
Submission by Helen Johnston. "Agricultural Migrants and Public Health. January, 1954 328
The Farmworker Association of Central Florida, Inc., Letter, petition and press statement regarding exposure to Benlate 338
Statement on Workers Protections Standards. By William K. Reilly. August 13, 1992 343
Worker Protection Standard For Agricultural Pesticides: Summary of Provisions. Environmental Protection Agency 345
Fact Sheet, Key Features, Implementation Plan for EPA Worker Protection Standard for Agricultural Pesticides 353

Page

APPENDIX 4. FAMILIES, CHILDREN, EDUCATION

Lynda Diane Mull, "Broken Covenant: The Future of Migrant Farmworker Children and Families in the United States." 365
Dr. Frank Corrigan, Office of Migrant Education, statement 379
John D. Perry, Migrant Education Council, statement 385

APPENDIX 5. SOLUTIONS AND STRATEGIES

Arcadio Viveros, Mayor of Parlier, CA, statement 391
Encarnacion Garza, Principal: Ringgold Elementary, Rio Grande City, TX, statement 398
Robert A. Williams, Florida Rural Legal Services, Inc., statement 413
Sharon Hughes, National Council of Agricultural Employees, statement 420
Transcript of video shown by Sharon Hughes, National Council of Agricultural Employees 424
Gloria Hernandez, California Rural Legal Assistance, statement 432
Farmersville, CA., City Council Resolution 435

STATUS OF MIGRANT FARMWORKERS IN THE UNITED STATES

Monday, July 20, 1992.

Washington, DC.

The Commission met in room 2128 of the Rayburn House Office Building, South Capitol Street and Independence Avenue, SW, Washington, DC, at 1 p.m., Jane Fisher, Deputy Staff Director, and Mary Sue Hafner, Deputy Staff Director and General Counsel, presiding.

Present: Jane Fisher, Deputy Staff Director and Mary Sue Hafner, Deputy Staff Director; John Fraser, Department of Labor; Ed Kissam, Consultant; Carlos Marentes, Union of Border Farmworkers; Roger C. Rosenthal, Migrant Legal Action Program; Mike Amitay and Vinca Showalter, Staff Assistants.

Ms. **Fisher.** My name is Jane Fisher. I'm Deputy Staff Director of the Helsinki Commission, and I'll be giving you a few brief remarks on what the Commission does. Then I will turn the panel over to my colleague, Mary Sue Hafner, who is also Deputy Staff Director and General Counsel of the Commission.

The Commission was founded in 1976 to monitor compliance with the Helsinki Accords which were signed in 1975. The traditional focus had been on Eastern Europe and the Soviet Union in terms of their compliance with their Helsinki commitments. More recently, particularly since the fall of the Berlin Wall, the Commission has been looking at its own domestic compliance record, although we did do one comprehensive report in the early years of the Commission on an overall look at our domestic compliance record.

About 2 years ago, we did a comprehensive study of homelessness in the United States, and more recently we decided to look at the issue of migrant workers because of the extensive language which is contained in each Helsinki document, beginning with the Helsinki Final Act.

You will find those references in a handout that we have out in the front. As you can see, they are fairly extensive.

The Commission does not have legislative authority. Our purpose is to look at issues, to raise public awareness of these issues, to examine these issues from all viewpoints. We try very hard to get the perspective of all sides on each issue. We hold hearings. We hold briefings of the sort that we are doing today, and we issue reports.

When we decided to look at the migrant worker issue, we started out by taking a staff trip down to central Florida, and from that trip we decided that we needed to do additional staff trips out to the southwest and to California.

Our purpose is not to take sides or point fingers. Our purpose is to listen to as many experts, expert in all the dimensions of this issue, as possible and, hopefully, at the end of this series of briefings that we are conducting, to have a better understanding of the issue, a better understanding from the perspective of the migrant worker's problems and a better understanding from the perspective of the communities at large.

Only in this way do we feel that we can come to solutions which will fairly address the problems. We did feel, from the first visit, that there were sufficient problems enough to warrant our continued look at this issue.

I would just reference one report that we used when we went down to Florida, a report that was done by former Secretary of Labor Elizabeth Dole. We found that this report which she had done after she had come back from Immokalee, FL, laid out the problems in fairly clear terms, and we were very impressed with the recommendations that she made in terms of addressing these problems.

We regret that no action seems to have been taken on this report, but we felt that it was a good starting point; because it was very balanced, and it took into account all sides.

So with that, I'm going to turn the panel over to my colleague, Ms. Hafner.

Ms. Hafner. I want to join my colleague in welcoming all of you here today. It is obvious from the turnout that this is a very troubling but very important human rights issue in not just the United States but internationally, and that is our purpose here today, to discuss that issue.

The Commission is very pleased to have with it today a very distinguished and very knowledgeable group of panelists that we have been able to assemble, which we hope will expound a rather wide range of views on this issue.

I would like to say at the outset, however, that one of our panelists, Elizabeth Whitley, who is the Assistant Director of the National Affairs Division of the American Farm Bureau, was unexpectedly unable to attend today because of a personal emergency.

It appears that the Bureau was unable to send anyone in her place, but we have been told that a statement by Ms. Whitley will be made available. It is not here at this point. However, later on, upon receiving it, if you are interested in getting a copy of that statement, we'll be more than happy to make it available to you.

At this point, I would like to introduce our panelists, and I will do so in the order in which we will ask them to speak. We have asked each of our panelists to speak for about 5 to 7 minutes, at which time we would like to involve the audience a bit. We would ask that whatever questions you may have, ask them at the conclusion of the four presentations, and we would also ask that you come to the front of the room, and please give your name. If you are with an organization, tell us that organization.

Mr. John Fraser is currently the Deputy Administrator of the Wage and Hour Division of the Employment Standards Administration at the Department of Labor. He has served with the Department since 1976, and has previously served as Acting Assistant Secretary of the Employment Standards Administration.

He has also been responsible for the agency's implementation of its new functions under the Immigration Reform and Control Act of 1986 and the Immigration Act of 1990. We have asked Mr. Fraser to address the historic role of the Federal government in migrant farmworker issues.

Also with us is Dr. Ed Kissam. He is a consultant on farm labor policy and migrant adult education issues. In 1989 and 1990 he directed the Farm Labor Supply Study for the U.S. Department of Labor and has also directed two case studies for the Commission on Agricultural Workers. Dr. Kissam has had experience with farmworker employment training programs. We have asked him to address migrant farmworker issues in both economic and demographic terms.

Also with us is Roger Rosenthal. He is the Executive Director of the Migrant Legal Action Program in Washington, DC, a position he has held since 1985. From 1980 to 1985 at that program he was staff attorney.

This organization is a national legal services organization which supports programs in 48 States as well as Puerto Rico. It represents indigent farmworkers on a variety of issues related to living and working conditions.

We have asked Mr. Rosenthal to outline the legal foundations designed to protect migrant farmworkers in the United States.

Also with us is Mr. Carlos Marentes. He is presently Director of the Border Agricultural Workers Union in El Paso, TX, which he helped found in 1983. Mr. Marentes is himself a former farmworker and has been active in the farm labor movement since 1977.

From 1977 through 1983 he organized for the Texas Farmworker's Union. Mr. Marentes who, by the way, met with the Commission staff in Texas will outline basic problems confronting farmworkers, including the difficulties that they face in organizing themselves.

We will begin our discussion with Mr. Fraser.

Mr. **Fraser.** Thank you, Mary Sue. Good afternoon, ladies and gentlemen.

I thought the best way in which I could address the issues that I've been asked to discuss this afternoon is to basically provide a catalogue of Federal programs that are designed to meet the needs of migrant and seasonal agricultural workers, in recognition of the special challenges that they face in their employment and in maintaining employment due to the generally short term nature of the jobs that they take, the highly mobile nature of the workforce, and the fact that increasingly the workforce is unauthorized to work in this country.

I am going to try to do that briefly this afternoon to catalogue the Federal programs that address those needs. I am not an expert on all of these programs, so if you have certain questions about some of them, I may have to get back to you with that information, especially those programs administered outside the Department of Labor.

Let me start, though, by talking about programs that are managed outside of the Department of Labor, which I'll come to toward the end, and start with migrant health programs.

There are two particular special programs, and that's really all I'm addressing this afternoon, special programs designed to meet the needs of migrant and seasonal agricultural workers.

The first of those, under the Public Health Service Act, is the Migrant Health Program administered by the Department of Health and Human Services. This is a program that establishes migrant health centers and provides funding to States to assist them in implementing and enforcing applicable and acceptable environmental health standards that apply to agricultural workers.

In addition, there is another special supplemental food program for women, infants, and children administered by the Department of Agriculture which has special provisions to provide nutritional assistance to migrant and seasonal agricultural farmworkers and their families, and include systems for certifying farmworkers for eligibility so that they don't experience interruptions in service or eligibility for benefits as they move from job to job and location to location.

There are special safety programs as well. There are certain Environmental Protection Agency standards that apply, especially in agriculture and especially with respect to pesticide exposure and application. The Department of Transportation maintains special standards relating to transportation safety requirements in the transporting of farmworkers where three or more farmworkers are transported 75 miles or more or across state lines.

Those special DOT safety standards provide standards applicable to both drivers and the vehicles in which farmworkers are transported.

There are a number of special education programs designed to meet the needs of migrant and seasonal agricultural workers as well. Of course, the Head Start program which is administered in HHS has special provisions for the children of migrant workers.

There are a number of programs administered by the Department of Education as well. The basic State Formula Grant Program for Migrant

Education, among other things, maintains a migrant student record transfer system so that the educational status of migrant children can be tracked as they move with their families from job to job, as they do during the summer and fall months.

There is a college assistant migrant program administered by the Department of Education as well, which provides academic support, financial and housing assistance for the children of migrant workers.

The Adult Migrant Farmworker and Immigration Education Act administered by DOE provides adult education services for farmworkers and their families, and the Handicapped Migratory and Seasonal Farmworker Vocational and Rehabilitation Services Program, also administered by the Department of Education, provides special services for disabled farmworkers, particularly those who suffer disability as a result of a work-related injury.

There are a couple of other Federal programs worth noting that are administered outside of the Department of Labor, Social Security being one. Any employer in agriculture who employs more than 20 agricultural workers or pays more than 20 days of wages to agricultural workers is required to withhold and deposit Social Security taxes on behalf of those workers, keep records regarding their employment and withholding of those taxes.

In our Department of Labor enforcement activity we have seen several problems relating either to the failure to withhold, in other words payment of straight cash wages under the table, or where withholding occurs, the failure to pay over those taxes to the IRS to credit the worker's account.

We are attempting, in a cooperative effort with Social Security and IRS, to develop some special compliance assistance and enforcement programs which will deal with what seems to be a fairly pervasive problem.

Finally, in addition to the Social Security provisions, there are housing provisions under the Farm Labor Housing Loan and Grant Program administered by USDA, which exists to make available financing for the development or the acquisition of land to develop farmworker housing. But I think, as everyone will indicate today, the adequacy of housing for migrant and seasonal farmworkers is certainly a challenge.

With respect to Department of Labor programs, I'm going to describe these for you in three general categories, labor standards protections, employment services, and other programs that we administer that are intended to meet the needs of agricultural workers.

Let me start with the labor standards provisions. The Wage and Hour Division in the Employment Standards Administration, which I represent here today, administers most of these laws.

The first of these is the Fair Labor Standards Act. That is the general law that provides minimum wage and child labor protection to workers throughout the United States.

The FLSA applies in agriculture. In most cases, there is a threshold of 500 person days of employment before the Fair Labor Standards Act applies, but that brings to bear minimum wage and record keeping requirements, requiring the current $4.25 per hour minimum wage to be paid, although there is an overtime exemption for most agricultural employment. Most agricultural workers do not have to be paid overtime for hours over 40 in a week.

In addition, the Fair Labor Standards Act brings child labor restrictions to bear in almost all agricultural employment except for employment of children on their family's farm, and those restrict the employment of young workers in agriculture who are 15 years of age and younger.

In addition to the Fair Labor Standards Act, the Migrant and Seasonal Agricultural Worker Protection Act (MSPA) was enacted in 1983. This is another set of labor standards law that my agency enforces, and it has several provisions.

It requires the registration of farm labor contractors and establishes certain standards for individuals to do business as farm labor contractors. It provides housing and transportation safety protection for farmworkers, and establishes obligations on employers who transport or house migrant and seasonal agricultural workers.

The law requires advance disclosure of wages and working conditions and makes those contractually enforceable standards. Finally, it establishes record keeping and disclosure requirements so that farmworkers need to be told in advance what they can expect to be paid, what the working conditions will be, and will be apprised exactly what they are paid, on what terms they are paid, and what deductions, if any, may be taken.

Those two laws, the Fair Labor Standards Act and MSPA, apply to agricultural employment in general in this country. There are a number of other laws, but one that I want to focus on a little bit here applies primarily to employers of foreign agricultural workers.

These are a relatively small number of workers who are allowed into the country each year from foreign countries to perform agricultural services of a temporary nature. This is called the H-2A program. I'm sure many of you are familiar with it.

This is administered within the Department of Labor jointly by my agency and the Employment and Training Administration, and it establishes labor standards that are applicable not only to temporary foreign agricultural workers but to any U.S. workers who are similarly employed.

So if an employer has both foreign and U.S. workers performing agricultural services, then the requirements of the H-2A program apply as well to the U.S. workers who are so employed.

Under the H-2A, program employers have to meet certain recruitment requirements in order to gain access to foreign workers and have to agree to provide a set of statutorily required labor standards that include a higher minimum wage than the Federal minimum.

They have to provide housing that meets standards, have to pay for transportation to and from employment, and are required to guarantee a minimum amount of employment to these workers under the terms of their work contract.

In addition, as another program that results from immigration law, there is a "special agricultural worker" provision that derives from the special agricultural worker legalization provisions of the Immigration Reform and Control Act of 1986.

This is a set of requirements that employers of individuals legalized under the special agricultural worker program maintain records and report to the government about the amount of their employment of such workers in order to provide a basis for determinations by the Secretaries of Labor and Agriculture as to whether to admit additional foreign agricultural workers for employment in the United States, individuals who under the law are called "replenishment agricultural workers."

In the 3 years in which this program has been operating, there has been no determination of a shortage of agricultural labor and no authorization from the Secretaries to admit replenishment agricultural workers.

Of course, the employment eligibility verification or (I-9) requirements that generally apply to U.S. employers apply in agriculture as well, and those are enforced jointly between the Department of Labor and the Immigration and Naturalization Service under a memorandum of understanding between the two organizations.

In addition to those labor standards protections that apply especially to migrant agricultural workers, there are Occupational Safety and Health standards that apply and which have particular relevance in agriculture, to housing, to what are called temporary labor camps where migrant workers are often housed, for field sanitation (the provision of potable water and toilet and sanitary facilities in the fields), and other OSHA standards that relate to the use or storage of ammonia, farm machinery, tractors, and cotton dust exposure.

In the employment service area there are two or three programs I should mention to you, first those provided by the United States Employment Service, which operates in the Department of Labor's Employment and Training Administration.

The Employment Service provides job information, counseling, testing, job referral, training referral, placement services to the agricultural community, both agricultural workers and their employers.

The Employment Service has a special monitor/advocate program where individuals at the national, regional, and state levels serve to assure that the Employment Service is providing adequate and appropriate services to migrant and seasonal farmworkers, and the Monitor Advocate is, additionally, an advocate for benefits for those individuals.

Under the Job Training Partnership Act, there is a section of the law that provides grants to private and public nonprofit organizations to provide training and other employment-related services, and additional services to migrant and seasonal agricultural workers, such as transportation assistance, nutritional assistance, housing assistance in emergencies, those kinds of activities.

There are a number of section 402 program agencies that receive grants to provide those kinds of services in local areas.

Finally, in the employment arena, unemployment insurance is available. Agricultural employers of 10 or more farmworkers during any 20 weeks, or who pay out $20,000 a quarter in agricultural wages are required to pay unemployment insurance taxes and agricultural workers are eligible for benefits, unemployment benefits if they have sufficient employment to qualify under the particular requirements of state law.

There are other programs in the Department of Labor, some statistical/workforce programs in particular, which are intended to develop information so we have good or, certainly, a better information base on which to make policy decisions affecting our responsibilities to the agricultural workforce.

We have a database that we've developed over the years as a result of the reporting required for special agricultural workers, and the Department funds a National Agricultural Workers Survey (NAWS is the acronym for that), which is an effort to develop good, current information on the nature of the migrant and seasonal agricultural workforce.

In closing, I should describe how the Department goes about carrying out its enforcement responsibilities for the programs over which it has jurisdiction. This is done largely through what we call a Coordinated Enforcement Committee, and this committee operates at the national, regional and, recently, at the state level where all of the Departmental agencies who have responsibilities--my organization, the Employment and Training Administration, the Occupational Safety and Health Administration--work together to plan our enforcement activities so we get as broad a reach of enforcement as possible and eliminate duplication of effort, that we have as open and inclusive relationships with the community as possible--with agricultural employers, with farmworkers and their advocates, with community service organizations and church organizations that provide services to farmworkers--so that we know where the problems are and, to the best of our ability, bring the resources we have to bear to address those problems.

To give you a sense of the scope of these programs, let me relate some recent enforcement statistics from Fiscal 1991: My organization (Wage and Hour) conducted about 2,700 investigations in agriculture under the Fair Labor Standards Act, recovering about $2.3 million in back wages owed to about 8,000 farmworkers. In addition, we conducted about 3,500 investigations under the Migrant and Seasonal Agricultural Worker Protection Act, and another 1,200 housing inspections, as a result of which we assessed a total of about $1.6 million in civil money penalties for violations of MSPA.

OSHA, acting both as a Federal organization and through its state plan agencies, conducted about 2,700 inspections in agriculture, including almost

600 field sanitation compliance inspections and nearly 900 migrant labor camp inspections.

So our two agencies carried out that activity last fiscal year. In addition to that, but the data here is from 1990, the state employment service agencies under the United States Employment Service independently carried out about 5,600 preoccupancy housing inspections of migrant labor camps, and these are inspections of compliance with Federal safety and health standards before those camps are occupied.

These statistics reflect the whole scope of the enforcement activity within the Department of Labor, but don't reflect really the emphasis we have given in recent years to improving the effectiveness of our enforcement activities as they relate to migrant and seasonal agricultural workers and in the agricultural sector in general.

Over the last 3 years, our Wage and Hour Division has carried out a special targeted program in agriculture, starting in 1990, focused in the East Coast migrant stream, and in years after that moving to the other migrant streams to concentrate our enforcement resources at the time and in the places where most migrants are employed. And we work very closely as well with state agencies and local organizations in putting together coordinated, targeted enforcement programs.

Just last week, for example, we undertook a major effort with the state of South Carolina, both law enforcement and labor standards organizations, in the Ridge area in South Carolina to carry out a comprehensive enforcement program targeted to particular challenges and some particularly bad or historically bad farm labor contractor activities in that area.

So that gives you a summary of the Federal programs designed to meet the needs of migrant and seasonal farmworkers, and some idea of the scope of Department of Labor activity in that regard.

I'll be happy to answer any questions you might have when the other panelists have finished. Thank you.

Ms. **Hafner.** Thank you very much, John. Obviously, there are extensive government laws and regulations governing this particular issue that we are looking at. Hopefully, one of our panelists will tell us whether, in fact, these laws are effective.

Next we will hear from Dr. Ed Kissam.

Dr. **Kissam.** Today I'd like to outline very briefly for you some of the demographic sociocultural and economic factors which enter into understanding and addressing the situation of migrant farmworkers in the United States.

I think the first critical recognition is to understand that U.S. labor intensive agriculture is not monolithic. It is tremendously diverse. It is a mosaic of tremendously different modes of production, different employment practices, different worker populations.

Each of these give rise to a different set of human dimensions in terms of how relationships between employers and their workers play out in different parts of the country. Having said that the farm labor market is diverse, I would now like to go on into something that is somewhat contradictory with that, which is to try and make some generalizations about the U.S. farm labor market in general.

First of all, I'd like to address the issue of employment security which is, from the perspective of our research, the major problem faced by migrant and seasonal farmworkers.

Lack of employment security takes two forms, one of which is well known, that migrant and seasonal farmworkers are chronically seasonally unemployed for a number of months a year, resulting in low annual earnings.

One of the other problems which has been noticeable in our research is the fact that farmworkers are also seriously underemployed even during the best points for working during the year. We call this peak season underemployment.

Essentially this stems from the fact that, even if farmworkers can work 4 months a year at peak harvest, those peak harvests never go entirely smoothly, and workers then end up waiting for work, being able to work 2 or 3 hours a day for 5 days a week, being without work for 4 or 5 days due to climate conditions, market conditions, due to not being able to find another employer, having finished the work at one farm.

In the farm labor supply study we found that, even when all able bodied family members in a family worked, very few farmworker families are able to emerge from poverty. In 1989 a lone male migrant working on their own in central California, which is considered to be one of the better labor markets in the United States, earned on the average $4,005.

In South Florida, again a labor market with a relatively good, solid labor demand during the winter season, average farmworker earnings for a lone male migrant were $5,213.

South Texas workers in our study averaged only 6.6 months of farmwork during the year, and all were partially unemployed even during the periods when they were working most.

Even though families with multiple workers, say a husband, wife and one or two teenage children were working, amongst the South Texas workers we interviewed a typical migrant nuclear family with four persons in it had an annual income, and this includes both farmwork and non-farmwork earnings, of $6,823. Clearly, those sorts of annual earnings put farmworkers deeply into poverty.

I would like to give you some examples of what exactly constitutes peak season underemployment, which is one of my primary concerns, just to give you a sense of this, and these come from our case records. We have adopted an ethnographic approach to looking at many of these conditions. So we have pretty detailed information on people's work histories and so on.

Using pseudonyms, here are some cases. One worker, I remember, who I interviewed in central Washington in the Yakima Valley asparagus harvest, Rufino Cendejas, was a middle-aged Oaxacan migrant.

His earnings during the course of the asparagus harvest were $114 a week. This is a harvest that lasts for approximately 8 weeks. Thus, Rufino, in the major harvest activity of his migrant year, made approximately $1,000.

In southwest Michigan a young brother and sister we interviewed, Pedro Duran and his sister, were pickle pickers. They were making $246 a week between the two of them at the peak of the pickle harvest. The $246 that we saw on their wage stub for the previous week was for picking 9,138 pounds of pickles and averaged about $120-$123 for each of them during the week.

Again, the pickle harvest, like the asparagus harvest, is a harvest that lasts 8 to 10 weeks, giving them earnings from their major crop of around $1200 to $1400.

In Michigan apples last year was admittedly a worse than average situation. Many growers have been hit with fireblight, and apple yields were low. The kind of situation we saw there was I interviewed a family of--well, a group of young men from Tamaulipas, from the northeastern area of Mexico.

They had arrived around 10 days before I interviewed them in Michigan, having come up the eastern migrant stream. They had waited 4 days for work, and they were working in apples. The day that I interviewed them, they had worked 4 hours in the apple orchard, which was all the work there was because of the bad harvest.

In the 4 hours that the crew of three young men worked, they made one bin of apples, which is approximately 1,200 pounds or so of apples, and they had received 10 dollars amongst the three of them for the one bin of apples. Their daily earnings were then $3 each.

These are isolated examples from our case studies which are clearly isolated case studies. However, I believe the findings are representative. The National Agricultural Workers Survey which is, in fact, a national survey and which samples many more labor markets than we did in our case studies, finds that the average earnings for farmworkers in the United States was $6,500 per year from farmwork earnings. The average number of days worked were 141 days.

In different labor markets, representatives will come up with different numbers of days worked, from 8 days to 160 days perhaps, but wherever we look at the different stories, they are similar, which is that farmworkers are disastrously underemployed.

A great deal of that unemployment, it must be understood also, is not protected by the unemployment insurance system, because the unemployment insurance system, for example, has a 1 week waiting period prior to being able to collect on a claim; and many workers, for a variety of reasons, low earnings or whatever, don't end up having valid claims.

So this is one major theme. I think that in the context of the Helsinki Commission's concern with human rights issues, and with the orderly flow of workers, one of the important issues which goes beyond the current legal framework is to consider whether, in fact, an employment payment system which is based on piece rate contracts, which is simply that a worker will be promised a certain amount, say 17 cents a pound in asparagus, $10 dollars a bin in apples or so on, constitutes in fact a valid employment contract. Essentially, what happens is that workers are drawn into a system which is similar to the system which evolved in 16th century Mexico where there were people called Enganchadores who were like hucksters who enticed workers into going to harvest assuming that there would be a tremendous amount of potential earnings.

In reality, most migrant workers assume that their work in the harvest will go well, and make their decisions based on the assumption that the particular crop they work in will yield adequately, that weather won't interfere, and so on.

I think that we need to consider--reconsider and look at protections for workers in terms of the worker's right to know what, in reality, the terms of employment they are going to be facing will be.

I would like to talk briefly about housing, which is, in my opinion, one of the other major issues. I think that in any area we were, crowded housing was ubiquitous.

It was amazing to us to see that around the country crowded housing arrangements result in almost equivalent rents wherever anyone is. Essentially, we talked to farmworkers in South Florida who pay $25 a week for a few square feet on the floor of a crowded housing place, a crash pad.

We talked to workers in Central Washington and in Central California who paid exactly the same amount. Essentially, the charges for housing were what the traffic would bear. Given a farmworker's typical weekly earnings of $150, $25 a week was what the traffic would bear.

What I mean by crowded housing conditions is not perhaps what is generally thought to be crowded housing. What I mean is two families of 17 people share a two room shack in southwest Michigan. It's 19 lone male migrants from Mexico sharing a two bedroom house in Parlier, CA.

In the two bedroom house with 19 workers living in it, the workers in the back bedroom told us they didn't know the other 10 workers who were living in the living room, because they hadn't had a chance to meet them yet, because in it they were so separate.

Crowded housing in Immokalee, FL, means a couple with a young baby sharing a small trailer with seven teenage young Guatemalan migrants who live--who sleep on the floor, separated from the couple by a blanket.

In Immokalee crowded housing meant that workers who slept in the orange groves surrounding Immokalee could take a shower for a dollar at the general store. These are the sorts of conditions which we saw.

Even in Central Washington which is probably one of the best labor markets that I have seen we saw this sort of housing. The rent was lower. It was an average of $18 a week per person sharing a house.

Given these sorts of conditions, it's clear that the United States farm labor force is not replenishing itself. Having looked in large measure with a focus on what would happen after Immigration Reform and Control Act passed, clearly, one of our conclusions, along with other colleagues and researchers, is that the Immigration Reform and Control Act is not working.

I would go perhaps further to say that it has worsened things. Essentially, it is very difficult for us to tell with certitude, but it looks to us as though migration flows from Mexico to the United States are increasing.

All of the case study research by the Commission on Agricultural Workers appears to be quite similar in finding that in every labor market in the U.S. the complaint is too many workers, not enough work.

I would suggest that an important issue facing us legislatively is to look at immigration reform from new perspectives. Ironically, the efforts which were made in terms of attempting to control migration seem not to be functional, and in fact some of the provisions of Immigration Reform and Control Act which were designed to decrease migration have, I believe, inadvertently increased it.

Specifically the fact that the SAW worker, the Special Agricultural Worker legalization provisions legalized only people who were themselves farmworkers and did not provide the generous amnesty which pre-1982 families received in which wives and minor children were legalized, served, it appears, to increase the rate at which migrants engage in back and forth migration to Mexico. This, in fact, stimulates migration further.

In fact, one thing to be considered probably in future immigration policy is what would be the effect of attempting to truly welcome migrants rather than to have a covered guest worker program, to truly welcome migrants and incorporate them into U.S. communities, with some measure of support for adults learning English and learning the ropes of life in the United States.

I guess I'd like to close in saying that my assessment as a field researcher is that even tremendously increased investments in public sector enforcement activities, regulatory activities and service programs oriented toward serving farmworkers will not be effective unless there comes to be some new mode of collaboration between the public and the private sector in terms of coming to a solution which is not adversarial and which is not seesawing back and forth in search of relative advantage.

Essentially, U.S. agriculture is facing a period where it has already been for many years part of the global economy. I believe that with passage of the North American Free Trade Agreement there will be widespread public recognition that we are indeed in a global economy and, frankly, the United States cannot compete in a global agricultural economy on the basis of low wages and casualized employment arrangements.

Clearly, other underdeveloped countries and countries such as Mexico have the advantage over the United States in terms of low wages and casual employment. The United States currently competes in a few crops successfully only because it has a more productive agricultural labor force than other countries.

California manages, actually, to compete with Mexico in a certain limited number of crops. I think that the moral of that story is that the United States will need to move to have a quality labor force in agriculture in order to really be able to benefit both the health of the industries and the health of migrant and seasonal farmworkers.

In the few isolated instances where we were able to observe a genuine collaboration between the public and private sectors, for example, in housing initiatives and so on, the results were spectacular. However, those are extremely isolated cases of good news, and I have very little optimism that, without a real change of heart, anything much will happen.

I think there is, certainly--Certainly in Central Washington, an area which I looked at very carefully, there is ample experience, particularly in apple production, that apple producers can provide their workers with extremely long, extended seasons in which the harvest crews are downsized to a level where people can remain largely employed throughout 9 to 10 months a year. At that point, it's possible for farmworkers to emerge from poverty.

Anyway, that's it for us, and I'll be delighted to answer any questions later.

Ms. **Hafner.** Dr. Kissam, thank you very much. You have described a system of employment, as you say, that goes back to the 16th century. It appears that perhaps the circumstances that migrant workers find themselves in today perhaps have not changed that much either.

Our next speaker is Roger Rosenthal, who is the Executive Director of the Migrant Legal Action Program in Washington.

Mr. **Rosenthal.** Thanks, Mary Sue.

For the past twelve years, I have worked for migrant farmworkers as an attorney with the Migrant Legal Action Program or MLAP, a national legal services support center here in Washington, DC. For the past 7 years, I have been that organization's Executive Director.

I very much appreciate having the opportunity this afternoon to discuss the conditions faced by migrant farmworkers in this country and to give you a brief overview of Federal laws intended to protect them.

I'm a lawyer who has chosen to represent indigent farmworkers in their legal claims against both private employers and governmental agencies, claims to obtain decent wages and fair and humane working and living conditions. Through my work on behalf of these hardworking people, I have both seen and heard a lot that has shocked and dismayed me. I know that decent, fair minded people in our country are literally taken aback when they get a true picture of what it is to be a migrant farmworker.

The distinguished physician and child psychiatrist, Dr. Robert Coles, testified some years ago before a subcommittee of the U.S. Senate which was investigating the status of migrant and seasonal farmworkers. His testimony discusses the status of these workers and places the conditions which they face in a global context. He said, and I quote, "Migrant children and their parents are kept from the rest of us and have no place, however dismal, to call their own. They are uprooted, such as even the extremely poor in other countries are not. The children go from school to school or, often enough, never go to school. Child labor is to be found, in spite of what the law says."

Dr. Coles continued, "No group of people I have worked with in the South, in Appalachia, and in our northern ghettos tries harder to work, indeed travels all over the country working, working from sunrise to sunset 7 days a week when the crops are there to be harvested."

He said, "I do not believe the human body and the human mind were made to sustain the stresses migrants must face, worse stresses, I must say, than I have seen anywhere in the world, and utterly unrecognized by most of us; nor do I believe that a rich and powerful nation like ours in the second half of the 20th century ought tolerate what was an outrage even centuries ago, child labor, forms of peonage, large scale migrancy that resembles the social and political statelessness that European and Asian refugees have known and, finally, be it emphasized, for people who seek work and do the hardest possible work, a kind of primitive living that has to be seen to be understood for what it does to men, women and, most especially, to children." End of quote.

In my work at MLAP, I have seen these conditions Dr. Coles describes, and I have seen them time and time again. I have seen the small, one room shack in Orange County, NY, just 1 hour from New York City, which stands unattached and unanchored on stone pilings and literally lifts off those pilings, tilting from one side to the other when the worker who lives there moves from one end of the room to the other.

I have heard the story of the Public Health nurse who worked with farmworkers in labor camps in North Carolina, a woman who thought she had lost her capacity for shock, having found terrible medical conditions among her patients, including live cases of tuberculosis.

This dedicated nurse would visit a particular labor camp in the evening after the farmworkers would come back from the field. One day she had to change her scheduled visit to a particular labor camp, and she arrived unannounced early in the morning before the hour the workers were to report to the fields.

She drove up to the camp, arriving just in time to see the camp crew leaders put the guard dogs away. She did not know her patients had been literally held captive at night in their labor camp.

I've heard the story of Hazel Filoxsian, a farmworker from Florida, who recently testified before the Senate Labor and Human Resources Committee. Ms. Filoxsian told of being raped as a child by a crew leader and how, years later, she and other women workers were used as sexual prizes given by a crew leader to the worker who had picked the most in a week.

In response to these stories, one might say there are Federal laws to protect these workers, but let us take a moment to look at some of these laws.

The Fair Labor Standards Act, which mandates a minimum wage and prohibits child labor, was originally passed by the Congress in 1938. Though at the time of passage the statute covered a vast number of workers, it did not protect farmworkers.

In fact, it took thirty more years for farmworkers to be covered by FLSA at all. Even so, two-thirds of all farmworkers are not covered, because of the threshold requirements for applicability of the statute.

It took 10 more years, until 1977, for farmworkers to obtain the same minimum wage as other workers; and in spite of the fact that farmworkers toil long hours in the fields, sometimes 12 hours or more a day, they are still not entitled to overtime.

This, of course, does not even touch on the degree of noncompliance with the minimum wage among agricultural employers who are covered by the statute, nor the sorry enforcement record of the statute by the U.S. Department of Labor.

Another Federal statute, the Migrant and Seasonal Agricultural Worker Protection Act or AWPA, passed 9 years ago, includes very important protections for farmworkers. The statute, which was passed as a compromise among employers, workers, and the U.S. Department of Labor, protects workers from unscrupulous recruitment practices, as well as requiring transportation in safe vehicles, and sets minimum housing standards.

The statute was passed as a consequence of Congress's recognition that when workers are recruited in their home areas, sometimes as much as 1,500 miles away from where they are to work, they are often subjected to misrepresentations with respect to working arrangements or living conditions which they find at the end of the road.

When they arrive to work, they are often at the mercy of crew leaders and growers who recruited them to travel to their farms. While this statute is a very, very important protection for farmworkers, enforcement of the statute has been almost entirely on Migrant Legal Services Programs representing the workers. The U.S. Department of Labor's record of enforcement here, too, is simply terrible.

Ironically, in spite of the fact that a unanimous Supreme Court several years ago affirmed a worker's right to file suit under this statute for injuries sustained as a consequence of being transported in unsafe vehicles, vehicles which are in violation of requirements of the statute, growers, employers, are now trying to change the law to reverse that unanimous decision.

Another statute, the National Labor Relations Act which, according to the National Labor Relations Board, covers more than 40 million workers across this nation, does not apply to farmworkers. Therefore, the struggles of all worker groups to achieve contracts and recognition from employers are truly modern day versions of the tale of David and Goliath. The successes of these worker groups against the huge corporate interests in agriculture are successes against absolutely overwhelming odds.

There is also the story of field sanitation, the 15-year fight to obtain the right to a toilet, hand washing facilities, and potable drinking water in the fields. The OSHA act, in principle, protects farmworkers' rights along with nonagricultural employees.

Yet in the early 1970's, the U.S. Department of Labor failed to act on a petition by farmworkers to promulgate a field sanitation standard. That standard, which was finally issued in 1987, took 15 years to obtain, including a full trial and several appeals to the U.S. Court of Appeals which finally ordered the U.S. Department of Labor to issue the standard immediately.

Unfortunately, the standard, due to Congressional restrictions, does not cover 80 percent of all farmworkers. These workers remain unprotected, subjected to the daily indignities of squatting in the fields, dehydration, and exposure to toxic pesticides without the ability to wash them off. U.S. DOL enforcement of these standards, even for those covered, is spotty at best.

There are a range of other protections for farmworkers, such as OSHA and Wagner-Peyser housing standards and anti-peonage statutes which are all substantially weaker than they might be. Regardless of their substance, these statutes, especially those prohibiting peonage, are virtually unenforced by public authorities.

Then on the other hand, you have state coverage in areas such as Workers Compensation which varies considerably. In the Workers Compensation area, many States do not even cover farmworkers at all.

Mr. Fraser has described a variety of programs established to assist farmworkers. One that he left out is migrant legal services, which has been very critical to the enforcement of many of these statutes.

Unfortunately, many of these programs were targeted for massive cuts or extinction during the Reagan administration, and many of these programs are still significantly underfunded at a time when the need, the documented need, for these services is very, very great.

In sum, while some farmworkers are covered by several important protective statutes, many are left out of coverage altogether, and those who are covered generally do not benefit from government enforcement. That is why millions of farmworkers in this country do not earn a decent wage or benefit from fair and human living and working conditions.

Farmworkers must be brought out from the shadows into the light of day. This country must confront its obligations to correct the abysmal conditions these workers face and to help these people who are key to our economy and our wellbeing.

We must not turn our backs on those who are poisoned by pesticides, denied decent housing, and who suffer the indignity of terrible wages and working conditions. We must rededicate ourselves to sustaining these hardworking men, women, and children who sustain us through picking the food we serve on our tables every day.

Thank you.

Ms. Hafner. Thank you very much, Roger. Our final speaker will be Carlos Marentes, who is presently Director of the Border Agricultural Workers Union in El Paso, TX.

Mr. Marentes. Ladies and gentlemen, first I'd like to express my public gratitude to the Commission for giving me this opportunity to participate in this hearing.

I am the Director of the Border Agricultural Workers Union or we call it UTAF, which is based in El Paso, TX. This area has become the most important recruitment point for agricultural workers along the United States-Mexican border.

From this area, farmworkers from Mexico depart to the most important agricultural regions of the country. Other farmworkers, around 15,000, stay in that region to work basically in the chili fields of southern New Mexico.

Our organizing efforts go back to 1980 and, personally, I have been involved in the farm labor movement since the 1970's. This experience allowed me to affirm that the conditions for farmworkers in this country are a moral disgrace.

Historically, agricultural workers have suffered from low wages and dangerous and unhealthy working conditions. Many studies and hearings have been held to prove this situation.

In spite of these many hearings and studies, the changes that have been done in agriculture have been insignificant or useless. To the contrary, not only has there been no better changes in the agricultural fields of America, but the situation has become worse for farmworkers.

In California, which supposedly was the example for the rest of the country, now it is common to find farmworkers living and working under subhuman conditions. The same thing in Florida where you now find the same concentration camps of the 1960's and the 1970's, which remind us of the system of slavery in this country.

The migrant families from Texas still have to sleep in their cars parked alongside the fields in the state of Washington. This is the same thing all over the country, but particularly in the southwest and southern part of the United States.

Nevertheless, our firsthand experience is with the labor situation of the region of southern New Mexico and far west Texas and, like I said, particularly in the chili--the multi-million dollar chili industry of New Mexico.

This is one of the most productive industries along the border, but this is also one that has the most blatant violations of labor and human rights of agricultural workers. The chili industry generates an income of nearly $300,000,000 for the State of New Mexico.

In order to give you an idea of the importance of this product, I need to mention that its value has increased constantly during the past decade from $26,352,000 in 1980 to $59,219,000 in 1991; and this is only the value of the chili crop. Once the chili is converted into picante sauce, the value increases.

Recently a study was published that indicated that picante sauce has displaced catsup as the main condiment in the food market, but this prosperity is based on the thousands of human beings that pick the product while receiving extremely low wages and working under unsafe and dangerous conditions.

In the chili fields of New Mexico, as in many places, they pay by piece rate for what each worker produces, and this type of pay has not changed for the past 10 years. Because of this, the annual salary of agricultural workers in our region was $5,300 in 1991.

This is not even one-third of what an American worker that lives in poverty, according to the guidelines established by the Federal government, earns.

Besides low wages, they face many other problems. Due to low wages or the lack of housing for farmworkers, many of them are forced to take their children to the fields. In the fields, the children are forced to work as adults, without access to basic necessities such as fresh drinking water or portable toilets; and they are exposed to all types of risks and hazards.

In the first photograph--I think you have a copy of some of the photographs--you see Lorena Llamas-Guerrero, 3 years of age, who on June 5 of this year lost her life on the side of an onion field in Salem, NM.

National statistics prove that farm labor is one of the most dangerous of all--it's one of the most dangerous of all occupations. Nevertheless States such as new Mexico exclude agricultural workers from the Worker's Compensation system.

Farmworkers and their families are denied medical assistance and access to health programs. Because of this, it is not unusual that the incidence of tuberculosis and other illnesses are extremely high among the workers.

Apart from this, they are denied basic benefits such as unemployment compensation, and since the majority of farmworkers lack stable housing, they are rejected when they seek public or private assistance. If this were not enough, their human and civil rights are constantly violated by the various authorities that operate along the border region, and especially by the Border Patrol.

The reasons for this situation are many. One of them is the indifference on behalf of the government, and particularly of agencies such as the Department of Labor, to force employers to respect the laws and regulations that protect agricultural workers.

Other reason is the weakness of these laws and regulations to achieve an adequate protection of the agricultural workers.

Most of the problems farmworkers face are also the result of the use of farm labor contractors by growers and agribusiness. The labor contractors are the worst violators of such laws as the Migrant and Seasonal Workers Protection Act and the Fair Labor Standards Act.

Nonetheless, the most important aspect is the lack of collective bargaining rights for farmworkers. Without this right, you cannot establish an organization that allows the workers themselves to better their wages and working and living conditions. All other workers in the United States have this right and, therefore, their wages and working conditions are different from the ones our workers have.

Without the right to collective bargaining, agricultural workers will continue living in poverty and will continue suffering the injustices they face now. Besides this, the right to organize is a universally recognized basic right by all countries that consider themselves to be a democracy.

There is no justification to continue to deny this right to those that feed this nation. The Congress has the moral obligation to support the fights of farmworkers for a better life, utilizing this right.

Once more I would like to thank you for this invitation to come before you, and I hope that the results of this hearing will benefit the agricultural workers that today suffer exploitation and poverty, because of the negligence of a greedy agricultural industry that continues to increase their profits at the expense of human suffering.

Thank you.

Ms. **Hafner.** Thank you very much, Mr. Marentes, and we very much appreciate your coming to Washington from Texas.

It seems to me that, obviously, based on what all of our panelists have said that we are faced with a situation that, in fact, has become worse. Before we go to the audience, what I would like to do is see if any of the panelists would like to respond to any of the remarks of the other panelists; and I won't pick on Mr. Fraser, but I'll give them all the opportunity to do so. Dr. Kissam.

Dr. **Kissam.** If I could respond to Mr. Fraser's remarks, I'd like to say I think Mr. Fraser has given a very good catalog of what Federal programs exist, and I think that, to frame that, a catalog is a correct description of it. It's a catalog of a series of goods which, in fact, can't be bought by those who are window shopping.

So simply to mention the two programs that I am directly familiar with, I did the national evaluation of the Vocational Rehabilitation Services for farmworkers for the Rehabilitation Service Administration in 1985, 1987. At that point that national program was funded at less than a million dollars.

As any of you who are used to running programs know, less than a million dollars is a drop in the bucket in terms of serving a national population. More recently, in 1990, I was part of a team which developed for the Office of Vocational and Adult Education some materials on adult education for migrant farmworkers, which is one of the programs that Mr. Fraser mentioned.

Therefore, I'm acutely sensitive to the fact that the title in the National Literacy Act which set aside funding for programs targeted to farmworkers never had money appropriated for that title--for that section of the law.

So all I can say is that, even in some of the areas where I've worked enthusiastically and energetically and where I hoped to see changes, lack of funding means that not much has happened.

Ms. **Hafner.** And do we have any questions? Yes, ma'am?

Ms. **LeBrecht.** I'd like to direct a question to each one of the panelists. Is it the laws that aren't working or aren't being enforced? Is it a lack of vigilance or is it that you need more laws?

Ms. **Hafner.** Dr. Kissam, would you like to start?

Dr. Kissam. Actually, my sense is that the problem is not that the laws are not being enforced. The system is fundamentally not working in many ways, and I don't see the lack of the enforcement of current laws as the problem. I see the fact that the laws don't address the core conditions which lead to farmworkers' problems being the difficulty.

Mr. **Marentes.** What I have to say is that, as long as the farmworkers don't get the right to form unions and to negotiate directly with the growers--I mean there is going to be no way to enforce laws or regulations, because they are the ones affected. They are the ones that's supposed to be doing it in an organizing way, protecting the rights and protecting their interest.

So I think the farmworker needs to have the right to organize, and an authority needs to establish to make sure that, when they are organized, that the employer, the grower, negotiates with that group; but they need to--The employment of laws and regulations has to come up by the affected. They are the ones that are going to be, you know, watching that their rights are protected.

Mr. **Rosenthal.** I believe that better laws would make a difference. So I think that strengthening existing laws and providing additional coverage such as the right to organize would be of enormous help. In addition, increased, effective enforcement of both existing and new provisions would make a big difference.

This is an imperfect world. The problems will not be solved completely, but I think that statutes can go a long way to making a difference in these people's lives; and enforcement of those statutes is necessary. Otherwise, they're not worth the paper that they're written on.

Mr. **Fraser.** I don't think I could agree more. As a law enforcement official, laws certainly can and need make a difference, and I think that Department of Labor is working very hard and continues to work hard to make sure that the laws we are responsible for are enforced; but I think I would agree with the doctor that the law, or the structure of law, is not the panacea to the kinds of problems you've heard about today and which we're all painfully aware of.

We work very hard to enforce those laws year after year, but there are, when you look at the agriculture workforce, a number of special circumstances that make it almost unique in this country.

There are other industries that are low skill, low wage industries, but few of them require the kind of mobility and have the short term employment prospects that are common in agricultural harvest work.

Now when you examine the characteristics of the work and the workforce, you find that there is relatively little requirement associated with entry into the workforce or incentive for stability in the workforce.

Because it is low wage, short term employment as long as workers can be found or present themselves, there is little structural incentive for the kind of stability in the workforce that leads to systemic changes in the nature of the relationships.

So the answer, I think, as succinctly as possible, is law is important, and the enforcement of law is important; but it is, in my mind, not the answer to the kinds of problems you've heard about today.

Ms. **Hafner.** I would ask our questioners if they would, please identify themselves.

Mr. **Cavenaugh.** My name is Dave Cavenaugh. I'm a policy research specialist for migrant farmworker issues at the National Association of Community Health Centers.

I'd like to ask a two-part question, if I may, to kind of piggyback on Mr. Fraser's remarks. The nature of the migrant workforce is indeed an unstable one, although a migrant family may derive the majority of its annual income from agricultural work.

There are risks posed by employment relationships with any one employer that makes it difficult to assure the full breadth of protections for any particular contract--for that piece of business, if you will. However, we do have a tier of the labor force here and an annual income and a value added to the agricultural economy that is vastly disproportional to that inadequacy of protection.

As an example, 2 days ago there was an article in the Washington Post about a $50 million settlement in the State of Florida, which is approximately the annual funding of the Migrant Health Program, for workers who had received arbitrarily determined wages for some period of years. It comes to $6,000 per worker.

I'd like to ask you and Mr. Rosenthal to respond to three questions. One: What are the chances of any worker ever seeing that money? In Bhopal, India, 12 years after a toxic accident, the case has finally gone to trial. Twelve years; 4,000 dead. What are the chances of those workers seeing any money? How is it to be distributed, and what protections are being put in place to stop arbitrary task rate payments from recurring? Thank you.

Mr. **Fraser.** Roger and I are going to join forces to try to answer all three parts of your question here.

My understanding is that this law suit is a private action, or at least one not brought by the Department of Labor, although I do believe that Rural Legal Service attorneys are involved in the suit.

My understanding is that the suit was decided in summary judgment by a state court and has been appealed to the State Court of Appeals. So to try to answer the first question, what are the chances of anyone seeing this money, I think the Court of Appeals in the state, perhaps the State Supreme Court, will decide that.

How it's going to be distributed--It is, in that context, I think, much too early to say. Roger?

Mr. **Rosenthal.** Assuming that the judgment does get affirmed on appeal, there is generally a mechanism in these kinds of cases for distribution of back wages or other funds to indigent farmworkers who have been deprived of those wages otherwise.

It can, in some contexts, be very difficult to distribute those back wages, because growers, even though they are required to, often do not have adequate records of their employees. In those kinds of situations, a worker has to come forward and, in some other way, prove that he or she did work for that employer and is entitled to part of the judgment.

In terms of the last issue, dealing with the arbitrary task rate, we are involved at our organization, and there are other organizations as well, that have been actively pursuing litigation to try to eliminate the arbitrary task rate policy.

We have several cases right now on our docket in the West to deal with that. It's a complex issue, but it's one which we hope we can win in both the short and long run for farmworkers.

Mr. **Fraser.** If I may just add, on the question of back wage distribution, just as a general matter, we very often recover back wages that are owing to agricultural workers like workers in other sectors of the economy, and we will either require the employer to prove that those monies have been paid or we'll take responsibility for distribution of and accounting for those funds ourselves.

So where we have any substantial doubt that back wages that are owed as a result of an enforcement action are going to actually be paid, we'll collect that money ourselves and distribute it.

Mr. **Cavenaugh.** Could I just ask for a response to the third part as well?

Mr. **Fraser.** The question was for my response to the third part, which is what actions will be taken to assure that workers are protected from payment on a task rate basis.

As Roger said, we teamed up to answer that question, because in fact there is substantial litigation going on about that subject to which the Department is a party, in some cases. In that context, I think it best not to comment from the Department's perspective, because there is this pending litigation as to how to resolve the question of the legality of the task rate basis of payment.

Ms. **Hafner.** Thank you. We have another questioner.

Ms. **Rottenberg.** Yes. My name is Laurie Rottenberg, and I'm with the Association of Farmworker Opportunity Programs.

I was hoping to get some more information about the Coordinated Enforcement Committees, how often they meet, and at what level. You mentioned advocacy organizations being invited, but we're typically not on any kind of list for that. So I wanted to hear a little bit more about these committees.

Mr. Fraser. OK. The Coordinated Enforcement Program is designed to make sure that Department of Labor agencies are talking to each other and working together in a common direction, as well as working closely with other organizations, state, local, private, nonprofit, community service organizations, so that we know where the problems are and how to direct our resources.

The National Committee meets here in Washington. It consists of the heads of the agencies that are involved, and there is a staff level working group associated with that committee that meets, I believe, twice monthly, but at least monthly.

The committee meets as warranted by whatever issues may be brought before it. In fact, we recently met with a delegation from the North Carolina Council of Churches with respect to particular enforcement challenges in North Carolina.

Each regional organization has a committee, and the Deputy Secretary of Labor has given instructions within the last few months to organize committees at the State level. They meet at least quarterly, have an open public meeting to which they invite representatives from all interested organizations to attend at least annually and more often than that, if there is interest in any issues that need to be addressed.

So the organizations will meet at least quarterly and have at least an annual public meeting, but do that much more often in some areas. As I said briefly in opening, the state committees are organizing, and they are at various places in different States for those same purposes.

Ms. Hafner. Thank you.

Mr. Harvey. My name is Pharis Harvey with the International Labor Rights Education and Research Fund. I would like to ask Mr. Marentes to follow up a little bit further.

You said the most important lack of rights is the lack of collective bargaining rights for farmworkers. I wonder if you would speak a little bit more about the major barriers you encounter to collective bargaining rights for farmworkers and what kind of legal reform or changes in enforcement at either the state or the Federal level would improve the opportunity for farmworkers to organize and bargain collectively?

Mr. Marentes. Yes, of course. Well, as you know, several States give farmworkers the right, California, Hawaii, and with different versions and so on in some other States; but in reality what we need is to have like every worker in the United States that is covered by the National Labor Relations Act.

I think that we need some kind of national labor relations act for agricultural workers with an authority. As you can imagine, the basic problem we face--For example, when we organized a labor stoppage in Hatch, New

Mexico, 120 miles north of El Paso, TX, it is the growers, the Sheriff who expel the workers from the place, because there is no law that says that if the majority wants to belong to a union or want to be represented by a union that the employer has to recognize that right; and that has to deal with that situation.

Most of the time, what happens is that fifty workers walk up from a field and declare a labor stoppage against the grower and demand a 10 cents increase, for example. What happens is that the next day they are replaced by new workers. They are fired.

If they keep the pressure, then they have to face the Sheriff Departments and all this law enforcement agencies that protect agribusiness and growers.

So we don't have a legal framework to do our organizing efforts, to do a struggle for better wages and better working conditions.

Now I think that it is not a good idea to have one state giving a worker a right and the other state, you know, excluding the worker from that right; because then what happens is that you have growers and companies from California moving to New Mexico, attempting to evade labor laws in that state. So I think a Federal law has to be--Farmworkers were excluded from the 1945 Labor Relations Act, and I think it's time that they need to be protected.

Ms. **Hafner.** You want to add anything to that, Mr. Fraser?

I would like to ask one question of all of our panelists. We live in a democracy, and we have a political process by which laws are made. What we've heard today is that--and if we assume for a moment that, in fact, laws are necessary, that they serve useful functions, given this democratic state, to what extent is democracy working for this particular community of migrant workers, and to what extent in that political process are we hearing the voices of migrant workers as opposed to, say, agricultural interests in making our laws?

Is there a breakdown in our democracy, to the extent that the laws are perhaps reflecting power as opposed to what is a very small and perhaps voiceless minority?

Dr. Kissam, would you like to--

Dr. **Kissam.** Well, I guess my first reaction is to say that the reality is that farmworkers' most precious commodity is their time, and they have no time for civic participation of any form; because so many hours of the day, week and year are devoted to survival.

The second observation, I guess, is that, by and large, the vast majority of field workers in the Untied States are born in rural Mexican communities, and have very little schooling and very little experience with the complex legal and regulatory environment of the United States.

Essentially, the sorts of issues which are posed in a democracy such as ours which baffle the general public and the experts at times and so on prove almost unmanageable for farmworkers in terms of looking at whether any particular issue which is to be voted on, decided on and so on, how to fix their lives, I think.

I think farmworkers are able to have a sense of what's right, what's wrong, what's sensible and what's not sensible, but the extraordinarily byzantine structure of even the regulatory framework which does exist as to which agency has jurisdiction, what are triggering levels, and so on, is unmanageably complex.

So there is no real sense in which farmworkers, by and large, as a population can, except in extraordinary cases of people who are tremendously dedicated and who take the time and who are tremendously astute, participate meaningfully.

Mr. **Marentes.** Supposedly, in a real democracy people have the right to vote and to elect who represents the interest of that particular person. The United States farmworkers don't have the right to vote in the fields, to hold elections in the fields, and to decide whether they want to be represented by a union or not.

So I think, in that sense, we are failing giving one right of the democracy to farmworkers, but I guess in a general sense I think that farmworkers in this country deserve to be treated with respect.

When you force farmworkers to live under subhuman conditions--There are some photographs in my presentation which will show you farmworkers living near the Rio Grande River or in the streets of Southside El Paso. There is a photo of three people eating in a car, this family living in a car outside the field.

So I guess we cannot, you know--We cannot continue talking about democracy or democratic country or democratic institutions unless we begin giving these farmworkers the right to a decent life, until we ensure that they are treated with respect not only by growers, but some of the time the abuses come from public institutions.

I know agencies in the area where I work where farmworkers are treated as criminals, where farmworkers are denied benefits without any explanation, without telling them their rights to appeal.

So I guess the attitude toward farmworkers by this society, by the government, has to change; and they deserve a better life. They are--Yes, they are a minority in this country, and the majority of them are Mexicans like me that came to this country looking for a better life, but I think that we are here, and we are doing a contribution to society. At least, we wanted to be respected by society and be treated as human beings, with dignity.

Ms. **Hafner.** Thank you.

Mr. **Fraser.** As I've tried to indicate in my remarks, I think that our democracy working to establish law has, in large part, recognized the special challenges and special circumstances of the farmworker community.

If the question is whether the politics in a democracy depend on power relationships and public perceptions, it would be impossible to argue with that question.

The law does recognize the special circumstance of farmworkers and, as I said in response to an earlier question, I think it's less in the law that the solution to some of these problems are found than in the basic economics and demographic structure of the agricultural economy.

It is a low skill series of jobs. It is a workforce that is increasingly foreign and unauthorized work in this country, and it is, as Carlos has indicated, very easily replaced. There is little stability or incentive for stability in the workforce.

I think it is in that set of structural circumstances that more light on the solution to these kinds of problems is to be found than in a construct of law that, while intended to recognize special needs and challenges, may not be supportable economically, especially in times of very difficult budget circumstances, and can't be successful in an environment where there is little incentive to meet extraordinary standards that would not be required in another area of the economy.

So my answer is I think democracy certainly works in recognizing the needs of this part of our population, but I'm not sure that's the answer or that the answer exists in laws enacted through the democratic process. Roger?

Mr. **Rosenthal.** The hearings where Dr. Cole spoke the words that I cited earlier were hearings called the Powerlessness Hearings, and they were a series of hearings about farmworkers.

Farmworkers are disenfranchised and virtually voiceless in this country, and certainly in the Congress. The Fair Labor Standards Act, when it was passed in 1938, did not cover farmworkers, as I indicated. There is a particular reason for that. That is that the agricultural interests, corporate agriculture essentially, had so much power that they were able to exclude their employees from the same protections that were accorded industrial employees.

That power structure continues today in slightly different form, but the balance is still tilted way against the farmworkers. If you look at PAC contributions and other ways of testing influence in this Congress, you see the enormous influence that corporate agriculture has on laws and on the democratic process.

There are very few people in the U.S. Congress who represent the interests of farmworkers, really just a handful, and often they are doing it out of purely altruistic purposes, because they are concerned about this group that does not have power itself, that doesn't have an ability to represent itself or protect itself.

As Carlos has said several times, farmworkers are not organized, essentially because they don't have rights to be organized. So it's very difficult. I've seen many instances around this country where farmworkers tried to group together to form some kind of cooperative effort, often not in a labor context, where without support, without continuing funding, that effort falls apart.

These people move. They're not always in the same place. They are incredibly poor, as you've heard as well from Dr. Kissam's presentation. They don't have the ability to come together and become a political force, and that really lies in contrast to the power and money that the employers have in this country.

Ms. **Hafner.** Thank you.

Ms. **Fisher.** I'd like to ask one question, please, of Mr. Marentes. When an abuse occurs with a worker--say, a woman is raped or a person's wages are unfairly garnished--what recourse does the worker have or maybe I should rephrase that.

Does the worker know that he or she has any recourse, and how would they go about getting some justice for an abuse or are they so afraid or are they unknowledgeable that they don't come forward?

Mr. **Marentes.** Well, the experience that we have is that that person can do two or three things. One, he can contact--She can contact the Department of Labor, and probably nothing will happen.

Ms. **Fisher.** Why is that?

Mr. **Marentes.** In the region where we are, we only have one inspector to enforce laws and regulations in Southside, NM, and then the agricultural areas close to El Paso.

The only two times when the Department of Labor has sent inspectors to that area to really investigate was in 1989, and the reason was because we held a protest of farmworkers outside the Federal Building, and we demanded from our Federal representative to contact directly the Department of Labor here in DC and to send those investigators.

Usually, nothing happens. Then the other option, you can file a law suit against that grower or that labor contractor. The judicial in this country in regards to civil matters is really slow.

He was asking about the specific case in Florida. Well, I know a case in Presidio, Texas, which I was involved at the beginning; and a lot of the farmworkers involved have died and still we are waiting for a final decision in that case.

So sometimes it's hard to get justice through the legal system, even though we use both the Federal agencies and the legal system to fight for our rights.

The third option is to fight directly and to put pressure directly to the grower and to the labor contractor to respect the rights of workers. We have been trying to organize that area since 1980, and finally last year we signed a small contract with a grower.

It took us almost 22 labor stoppages that involved around 700 farmworkers, a month of striking almost every day, protesting every day. We even went to Mexico to do our protest before the American Consulate, everything, filing law suits, complaints, involving everybody, the church.

Finally, we signed this contract with one of the biggest growers, a contract that only covers from fifty to 100 farmworkers. So--but now under that contract the situation is different. Now--I mean, now they--For example, the grower or the labor contractor cannot fire the worker.

If you have a problem with our worker, you need to call and talk to the union, and then the union and--the representative of the union, the grower will decide a solution to the problem.

So I guess my answer is--I mean needs to be, the farmworkers, women, men, children, need to become organized and find a solution to the problems themselves with the support of, you know, agency laws or regulations; but I think there has to be a solution by the farmworkers themselves.

Mr. **Fraser.** If I may react to that first part of Carlos' answer, I think when he said that we have one investigator in the West Texas area, he is referring to one farm labor specialist. Agriculture is the only industry in which we have individuals identified as full time specialists to maintain knowledge and awareness of exactly what's going on.

We have about 25 such individuals identified around the country, but in fact those farm labor specialists exist to coordinate the enforcement efforts of all our investigations. We have offices both in El Paso and in Albequerque.

Over the course of the last 4 years, we have had special enforcement efforts in the New Mexico chili harvest in each of those years. So when Carlos indicated that we had one person, in fact we have probably twenty-five investigators altogether in that area with responsibility for that activity, one of whom is responsible for focusing exclusively on agriculture.

I would also point out that more than 90 percent of our agricultural enforcement program is directed--We get very few complaints in agriculture. I think, Jane, you asked in your question whether agriculture workers are afraid or don't have the knowledge to know where to go to get redress.

As I said, very few complaints come from agriculture. All complaints we receive in agriculture would be investigated immediately because we know, if we don't, the workers won't be there. They will have moved on, generally, to some other employment; but more than 90 percent of our enforcement activity comes without a complaint. It's directed to find workers where they are when they are working in the harvest or in planting or whatever they may be doing, and to get our resources there when most needed.

I just wanted to clarify that based on Carlos' remarks.

Ms. **Hafner.** We have another questioner.

Mr. **Green.** Hello. I'm Andrew Green. I'm a correspondent for the Mexico City News.

My question to Mr. Marentes is, what do you think the effect of the North American Free Trade Agreement will be on the negotiating strength of Mexican workers? Will it have a deleterious effect on their strength? Thank you.

Mr. **Marentes.** Well, what can I say about free trade? We go from one problem to another. I guess the biggest concern we have is how free trade will affect farmworkers in this country and farmworkers in Mexico.

Several things--I can talk about several specific things. One, what changes will bring free trade in Mexico, especially in the communities where most of the farmworkers of this country are coming from? In some of these places, begin selling their land in Mexico with recent reforms to the Mexican constitution--If some of those peasants begin selling their land, they will be relying more on working in the United States, not in staying in Mexico.

So we will have more workers competing with the farmworkers already here. Some of the operations of the agricultural companies will be supplemented, not moved but supplemented through production from Mexico.

I don't think agriculture in the United States is ready to move their whole operations to some other country. I think that they want to move some operations to supplement the production in order to ensure that somebody in New York has tomatoes on the market every day in the year.

So what happens is that we will have, you know, that competition. The situation with that right now is that, you know, there has been at least the establishment of some laws and regulations in this country that protect farmworkers, and now there is some talk and some States have already passed regulations regarding the use of pesticides.

You know, in Mexico some pesticides that are illegal here are legal there. I mean, they use DDT. So how the situation in Mexico is going to affect the situation of agriculture in the United States? I think that, if the wages and the working conditions, laws and regulations don't improve in Mexico, that situation will serve to pull down the wages and the working conditions of farmworkers in this country.

In fact, it will make things worse here, and we will have more workers and, you know, more coming from Mexico to compete for the few workers in agriculture. I think it would have a negative effect for farmworkers.

Ms. **Fisher.** Do the other panelists agree?

Mr. **Rosenthal.** Yes. It's hard to say for sure what all the effects are going to be of the Free Trade Agreement, but I think Carlos is exactly right, that it's inevitable that the situation here in the United States is going to deteriorate one way or the other.

There is currently, clearly, an oversupply of labor in this country and, if there are fewer jobs, what's going to happen to the people who are already having trouble getting any job, let alone a sustained period of employment?

Again, there are some differing analyses of the situation, but those of us who sit looking at the situation from the farmworkers' point of view see some grave threats to the future of agricultural employees in this country.

Dr. **Kissam.** If I could comment briefly, and I'm sorry to keep the gentleman waiting. My perspective is a little bit different in that it seems to me extremely important to distinguish between the short term and the long term impacts of NAFTA on the U.S. agricultural labor market.

I think, certainly, in the short term everyone sees that there is likely to be increased migration to the United States, increased chaos and some quite negative short term impacts; but on the other hand, it's also important to recognize that NAFTA phases in, particularly in agriculture, over a fairly long period of time.

I think the moral of the story for us is that we do have a few years. This is not a crisis. This is not a set of issues that should be addressed on a crisis basis, but from a thoughtful perspective in terms of looking at what movement toward free trade means in terms of economic cooperation, in terms of labor market issues, human rights issues, migration control, and so on.

So I think I'm fairly optimistic in the long run.

Mr. **Linfield.** John Linfield from the Housing Assistance Council. Maybe I can get a double dip and add to what you're saying.

To the extent that it increases the supply of laborers to the employer's advantage--it always has been--it will drive prices down. It will make working conditions even worse, if the Free Trade Agreement does, as most people expect that it will do.

I don't believe, after 25 years in the business, that it in fact is going to be short term in that respect. I fear it would continue for a long time. However, that isn't why I got up.

I would like to ask a question of Mr. Fraser. It's been an open secret that U.S. Sugar and other growers in Florida and Louisiana have dealt with their laborers in an unfair manner.

I was myself responsible for filing one complaint in the 1960's and problems have been going on since then. I wouldn't have brought it up except you keep talking about the enforcement efforts that the Department is making, and I have over the years seen very few of those efforts pay off in any reduction in the abuses which occur.

Now again I apologize. I don't mean to be attacking you personally, because as a one-time bureaucrat I had to deal with the Department of Labor; but I would be interested in your comments about the U.S. Sugar case, not the current 50 million one but what's happened over the years, and in Louisiana where nothing really has been done to ameliorate the atrocious conditions under which those cane cutters have to work.

Mr. **Fraser.** I'd be happy to, sir. Unfortunately, I don't think I'm going to be able to say much about Louisiana. I'm not personally familiar with that, but that's something we could certainly find out and follow up to answer that question.

In the Florida sugar cane industry, however, which is and has been for, I guess, nearly half a century now largely dependent on the use of foreign workers, in 1986 the Immigration Reform and Control Act changed the structure of the H-2A program so that in 1987 my organization became responsible for enforcing the labor standards provisions of that law.

At that time, 10,000 to 12,000 Caribbean workers were coming each year to hand harvest sugar cane. We talked earlier about a law suit. There has been litigation in this program going back probably for the half century that workers have been coming from the Caribbean to harvest sugar cane; but starting in 1987, as I said, we gained responsibility for labor standards enforcement that year.

We conducted investigations of half of the sugar cane companies. There are a very small number of companies. I think at that time there were eight altogether, but including U.S. Sugar and the three other largest sugar companies.

As a result of those investigations, we recovered more than half a million dollars in back wages for the Caribbean workers, as well as another $600,000 in unpaid transportation reimbursement.

We have continued our enforcement program in the Florida sugar cane industry since that time, each year investigating about half of the employers, and we think we have made substantial changes in industry practices.

The suit that was asked about before would have a profound impact on the labor economics of the industry if it's in fact upheld on appeal.

So we have been very active in the Florida sugar cane industry, as well as in other areas where H-2A workers are employed. If you would like, if you want to leave a card or something, I can find out about Louisiana. I just don't know personally today.

Ms. **Hafner.** Do we have anymore questions? Yes, sir?

Mr. **Simanis.** My name is Simanis. I would like the panel to comment on whether they know anything about the Social Security coverage of migrant workers. I'm thinking, particularly, to disability benefits. Are migrant workers covered by Social Security? When they incur a disability, do a significant number of them get some sort of disability payments?

Also, presumably this general problem of migrant workers has come up in any number of international conferences in connection with the Helsinki process. Are the other countries coming up with special programs particularly aimed at Social Security coverage for these people, and are they coming up with programs that we might follow?

Mr. **Fraser.** Sir, I can answer the first part of your question, I think. Any agricultural employer who pays at least 20 days of hourly, weekly or monthly cash wages is required to withhold, report, and keep records on Social Security contributions, what are commonly known as the FICA taxes.

Workers are eligible for Social Security benefits under the same circumstances as any other worker. It, of course, depends on how much you earn and how long you've earned it, what your record of earnings is but they are eligible, as I understand it, just like any other worker for Social Security benefits.

The problem tends to be a failure to withhold or, where there is withholding, a failure to pay those taxes and credit workers' accounts. So that their eligibility is compromised by the failure to deposit the FICA taxes that have been withheld; but to my knowledge Roger may know more about this--eligibility is the same as for any other worker.

Mr. **Rosenthal.** Yes, John is right. In principle, agricultural workers are covered by Social Security benefits, but as he noted, the problem is getting the right number of quarters to be credited to a worker or the fact that money may not have been paid into the system, in spite of the fact that it was deducted from workers' wages.

We have literally countless examples in our work of this happening. There are several different scenarios where this occurs, one of which is the attempt by agricultural employers to call their workers independent contractors as opposed to employees, which would mean that they don't have an obligation to pay in the employer's share of the Social Security and, in fact, the worker would have the obligation to pay that double sum of self-employment tax.

Very often, a worker will come home from a harvest season to South Texas, for example, and find a notice of employment tax deficiency with penalties waiting in their mailbox, when in fact the worker had assumed all along that he or she was an employee and that the employer had paid in for that protection which the worker is counting on. This is important because, obviously, farmworkers don't get any pensions. The meager amount of money that a farmworker could get from the Social Security System would be the only protection that they would have.

One other problem is that very often, when a family is working together, the entire family is placed on what's called the father's "ticket" or essentially all the earnings are placed on the male of the family's employment record.

That individual then has credit for the work of the entire family, including any of the children, a spouse, and so forth. Neither the children nor the spouse gets any credit for those hours worked, those days worked, those periods worked, even if they had worked 15 or 20 years. Very often women find that their spouse passes away and they are not covered by Social Security because they were never given credit for the very hard, back breaking work that they did, day in and day out. It all went on the husband's account.

There are lots of major, major problems in getting coverage for farmworkers in that kind of situation. The bureaucracy has, on occasion, been resistant to farmworkers trying to correct their wage records.

There have been several cases recently where legal services have represented farmworkers who can prove that they worked a certain number of periods in order to gain that coverage, the minimum required, and they've had to go up on appeal at several levels in order to get an adjudication that in fact these people--generally farmworker women, are actually covered by the protection.

Mr. **Fraser.** I think, if I may, there is one other aspect of your question that we ought to address, although I don't know enough to answer it. I can only raise the question.

That is, with an increasingly large proportion of the workforce being either recently legalized or not authorized to work in the United States, it may well be that there is some provision in the immigration law that affected eligibility for some of these Social Security benefits for the newly legalized, and it's very doubtful that unauthorized workers are going to be in any situation to claim entitlement to some benefits, even if they accrued sufficient credits.

So the legally authorized worker status is also a factor that may play. You may know some more about that, Roger, than I; I just don't know how that may affect entitlement.

Dr. **Kissam.** Just to comment on the issue of disability in general is that farmworkers continue to have very serious problems in terms of collecting disability insurance and in terms of vocational rehabilitation, because so many of the problems that they experience are chronic and difficult to link to a particular traumatic injury.

So the problem of back problems, arthritis and so on continues to be, I believe, a very serious one, particularly as the farm labor force ages, particularly U.S. workers who first came to the United States, so called Green Card workers who came to the United States in the 1960's and 1970's, have stayed in farm work and are still working in farm work.

Those workers are largely older, and they will end up having--They have little recourse except to continue working.

Mr. **Marentes.** Just mention something about that. For several years, some nations have been trying to pass an international convention for the protection of the rights of migrant workers and their families. I think that initiative has been before the Socioeconomic Council of the United Nations.

The main opposition to that convention has come from the United States. Basically, the United States argues that here migrant workers have all their rights, have everything, that they don't need nothing more; but I guess there is going to be some advances now that there are some changes taking place in Europe, and now that the problem of refugees and migrant workers have become something like a big problem for several countries.

I think that sooner or later, 1 day we will see an international declaration of human rights for migrant workers. I hope that that day when we'll see that declaration, we will have the power to put enough pressure to the United States to sign that declaration; because, as you know, there are several international instruments that protect the rights of workers, but United States has refused to sign those declarations.

Ms. **Cosman.** I'm Cathy Cosman, Free Trade Unions. I would like to ask a question about pesticides. Dr. Kissam and Mr. Marentes both referred to the problem in general. I was wondering whether they could be more specific. Also, I would like to hear about international standards on the health effects and use of certain pesticides, whether such exist and, if so, if they are being observed.

Dr. **Kissam.** If I could comment on just--I haven't dealt directly with pesticide issues for the last 15 years, but let me say that one of the concerns which was of major prominence in my mind in those--and other people in California in the 1970's--had to do with the effects of chronic exposure to pesticides.

It's an area in which, to the best of my knowledge, the research continues to be tremendously inconclusive. There's inadequate research, and still very serious reason for concern as to what those effects may be; because the EPA's enforcement has focused on acute toxicity rather than long term effect.

So its an area where, I think, we really need to look at in the future.

Mr. **Marentes.** Well, I don't know. Maybe Roger can talk more about it, but the problem with pesticides is that the Federal Government has failed to regulate the use of pesticides. For example, in New Mexico we don't have state regulations. In Texas, we have what is called a right to know law, under which the employers have the obligation to advise the workers that a certain pesticide was used in the field, that there's a 24-hour entry security something, but I guess that the failure of the Federal Government to pass Federal regulations in regards to pesticides has been a major problem for farmworkers.

If we don't have, you know, those types of regulations, how can we expect Mexico to have regulations in regard to pesticides and health and safety in the fields? About 3 or 4 months ago, I discovered what is called Diario Oficial de la Federacion, which is something like the Federal Registry in Mexico.

I was amazed to find the name of DDT as one of the legal chemicals for use in Mexico in pesticides.

Ms. **Hafner.** Do you have anything to add, Roger?

Mr. **Rosenthal.** Just a little bit of detail, I guess, about the lack of initiative on the part of Federal agencies. I believe the Commission may be considering some additional hearings where you're going to be talking about health issues, and I'm sure pesticides will be one of the things that you talk about, if you do do that.

One example of the lack of protections here is the extraordinary delay in the worker protection regulations which are being considered now and have been considered for a lengthy period of time. The appropriate agencies just keep on sitting on the regulations and sitting on the regulations and sitting on the regulations.

There seems to be a lack of will in terms of enforcement as well as simply promulgating regulations pursuant to statutes which have been around a long time. We do have a problem in this country as well with the export of chemicals which are not permitted to be used in this country anymore but which other countries allow to be used. You see this so called circle of poison being spread throughout the world, and it may come back to haunt us as a consequence of free trade.

Ms. **Hafner.** John, do you want to add anything?

Mr. **Cavenaugh.** In the health arena, I've had conversations with the National Institutes of Health about the kind of panel that would be necessary to assemble and collect data to definitively determine whether a population was experiencing cancer rates due to a particular exposure or not.

Essentially, they are saying we need to track 100 farmworkers for 10 years. That's the way it's normally done. There has been limited experience with regard to the effects pesticides on users of pesticides. Pesticide producers maintain that there are no risks to farmworkers exposed to pesticides. Check the literature, there's nothing there.

It's a very difficult problem to unravel. I'd like to use the health status as a kind of example of the national policy issue in the form of tracking some newly emergent conditions, AIDS and tuberculosis, and their interaction.

In the cities, we now know that people who develop both these infections can die in months. Two months ago at the annual Migrant Health Conference presentations were given that indicated a positive TBD rate of tuberculous infection, although not clinical TB rate, of 35 percent from five different screenings around the country.

So, if you look at migrant farmworkers anywhere, you'll find that in 1991 this was the rate of infection. In an effort to determine how well those screenings were also identifying HIV in the rural farmworker population, we looked at one area in the eastern stream to try to study how the screenings were undertaken, and found a surprising discovery.

As a part of a background information piece on that area, a nurse there provided a video tape of a network show on that county's migrant farmworkers that documented how they're paid in crack cocaine, and HIV is transmitted by non-needle drugs and alcohol as well as the more conventionally known ways.

So the question is this: What Federal agency is responsible for making sure that migrant farmworker population, which receives $500 million worth of Federal assistance for education, health care, and job training, $1,000 a head per year, handles that aspect?

If the Migrant Health Program, buried deep in HHS, reports on health status, which Federal agency takes responsibility for seeing that the farmworker population has its health protected, has its drug abuse dangers prevented? Is it Justice? Is it the State Department? Is it the Anti-Trust Division? Anyone care to speak to that?

Mr. **Fraser.** I will do my best to answer that. From our perspective, we're dealing with that issue as, in effect, a local law enforcement problem.

I mentioned earlier an effort in South Carolina over the last week. Involved in that besides our investigators were South Carolina State Law Enforcement Division agencies, South Carolina Highway Patrol agents, South Carolina Alcoholic Beverage agents, the local Sheriff's departments, and the FBI, along with South Carolina State Attorneys.

We recognize that a part of the problem that leads, in large part, to debt servitude are alcohol and drug dependencies, but we have tried to deal with those as a local law enforcement issue. To the extent that there is a broader problem, then the FBI generally is the cognizant Federal agency to coordinate efforts, either to deal with illegal drug sales or allegations of peonage, in many cases which are based on allegations of illegal drug sales and use.

Dr. **Kissam.** Can I comment?

Ms. **Hafner.** Yes.

Dr. Kissam. If I can comment on that, one perspective, I think, is that there has always been recognition of the need for primary health care for farmworkers, but that primary health care has not often been understood to include the need for community mental health support.

Since the last published thing I saw on farmworker mental health issues was 1976, the President's Commission on Mental Health, and since then not much has happened. The reality is that we know that families under economic and social stress are at very high risk of having a tremendous range of mental health problems which have to do with drug use, and abuse, even if the preferred drug of abuse is alcohol.

I think that it's an example of where there's a need for integrated Federal policy, because there is no national department of mental health. There are only a whole range of piecemeal efforts for AIDS outreach, alcoholism, child abuse and neglect outreach, and so on, but they're not uniform or terribly effective.

Ms. Hafner. It would also seem, just based on what we have heard here today, that there exists quite a maze of Federal laws and regulations dealing with a group of people, and perhaps there is some lack of coordination and need for centralization.

It must be helpful to have someone look at this not just as individuals but as a family in need. Taking a look at the total needs of these people and their families would certainly seem to be a step in the right direction.

Since there are no more questions, I want to thank all of you for joining us today. I also want to let you know that as Ms. Fisher indicated at the beginning, this is a very serious human rights issue for the United States. It is serious domestically and it is serious internationally.

That is why the Commission is looking at it. This is not our first visit. Commission staff has visited several States. They have done their own fact finding missions and much of what we've heard today, basically, corroborates what we have found to be the case.

I would add one thing, however, based on some of the reports that I have read from our staff which has not come out at this hearing, and that is the dedication of some government officials.

We've heard a great deal about the migrant community itself, about legal services, but we also met in the field many embattled government officials. As Roger indicated, his people work for altruistic purposes. Many of these people are also working for the same reasons.

So I think it is important to point that out. It's not the case that government officials are the bad guys here.

This is the first of a series of hearings. We hope to conduct two or three more public briefings. We hope to take a closer look at some of the issues that are of particular concern. As I said, this was just a general overview of the issues and the problems confronting the migrant farm workers.

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We will be looking at housing conditions, access to health care, and also, I think, probably the right to bargain collectively and the safety nets that are in place today.

I want to thank our panel who were very, very gracious with their time, Mr. Fraser, Dr. Kissam, Mr. Rosenthal, and, certainly, Carlos Marentes. Thank you very much.

[Whereupon, at 3:26 p.m., the Commission adjourned.]

HEALTH AND SAFETY OF MIGRANT FARM WORKERS

Friday, October 9, 1992.

Washington, DC

The hearing was held in room 2128, Rayburn House Office Building, Washington, DC, at 10 a.m., Jane Fisher, Deputy Staff Director, presiding.

Present: Jane S. Fisher, Deputy Staff Director

Ms. **Fisher.** I would like to welcome everybody here this morning to the second in our series of our examination of the migrant worker issue in this country.

I am Jane Fisher, Deputy Staff Director of the Helsinki Commission. The Commission generally focuses on human rights problems in Eastern Europe, Central Europe and the former Soviet Union, however, it is the Commission's belief that an examination of possible human rights abuses in our own country is not only our obligation under our mandate in the Helsinki process, but it also gives us more credibility when we are discussing human rights concerns with other countries.

Last summer at the Helsinki summit, leaders of 51 CSCE nations reaffirmed their commitment to promoting tolerance, understanding, equality of opportunity and respect for the fundamental rights of migrant workers.

This is a little known fact about the CSCE process, that it specifically addresses the rights of migrant workers.

Over 17 years mutual CSCE commitments have grown to encompass not only conditions of employment for migrant workers, but also health, housing, vocational training, education, special needs of children and equality of opportunity.

Our primary purpose today is to promote public awareness of the migrant worker health problems in this country. Since the Commission began its examination earlier this year, a myriad of health and safety concerns have become evident. Farm work is the most hazardous work in this country. Unsafe transportation, pesticides exposure, and other routine dangers commonly account for hundreds of deaths and injuries each year, and rates of infectious diseases and other serious maladies are much higher among this vulnerable population.

Yet the transient nature of migrant workers, cultural and economic barriers, and rigorous schedules make health care delivery problematic.

Workers are often reluctant to seek medical assistance for fear of losing their increasingly precarious jobs.

And while the Nation as a whole faces an affordable health care crisis, safety net programs designed to help the neediest are most often unused or unavailable to migrant farm workers.

A particular area of concern to the Commission pertains to the use and regulation of pesticides. When staff members traveled to agricultural intensive areas around the country, numerous examples of pesticide exposure were in evidence. Regulations concerning labeling and application of pesticides, as well as field reentry intervals seem to be routinely ignored.

The health implications raised in this area are enormous and sometimes deadly. It is imperative for the sake of growers, farm workers and consumers that high standards regarding use and application of pesticides be maintained.

The Commission will compile and publish the proceedings of its briefings along with statements submitted by interested groups and individuals, and subsequent briefings will address family issues, as well as possible solutions to problems encountered.

And I would just add that we feel very strongly that this is a problem that has gone on too long in this country. Migrant farm workers do not have a constituency. They do not have a strong voice, and yet it is a group of people in this country whose human rights are being very badly abused. We are not here to point fingers just at farmers or just at government.

It is the responsibility of all of us because it is a problem that has become acute, and it diminishes us as a country. It diminishes what we stand for in America.

So let's hear now from those who have dedicated their careers to work in this field. We have with us Dr. Marilyn Gaston. She is Assistant Surgeon General and Director of the Bureau of Primary Health Care of the Department of Health and Human Services, which is responsible for improving access to quality, preventative and primary care to underserved minority, poor and disadvantaged populations.

Programs under Dr. Gaston's direction include community and migrant health centers. I will introduce all of you, and then each of our panel members will make their presentation, and then we will take questions from the floor.

David Duran is chairperson of the National Advisory Council on Migrant Health, which makes yearly recommendations to the Secretary of the U.S. Department of Health and Human Services.

He is currently the Hispanic and Migrant Services Coordinator in the Wisconsin Department of Health and Social Services. A former migrant and seasonal farm worker, since 1974 he has worked to provide various services to migrant farm workers.

Dr. Ed Zuroweste is chairperson of the Migrant Clinicians Network and Medical Director of the Keystone Migrant Health Clinic in Chambersberg, Pennsylvania. He serves on numerous national and regional committees associated with family, community and rural health care, and has been appointed to the Executive Coordinating Committee of the National Coalition for the Elimination of Tuberculosis.

Valerie Wilk is a health specialist with the Farmworker Justice Fund, a national, not-for- profit advocacy organization in Washington, D.C. She also directs the fund's farm worker women's health project.

Prior to her current position, Ms. Wilk directed a pesticide education program at a community and migrant health center in New Jersey.

Louis True, Jr. is senior advisor to the Director of Environmental Protection Agency's Office of Pesticide Programs.

So let's start now with Dr. Marilyn Gaston. Doctor.

Dr. **Gaston.** Thank you very much. Good morning.

I am Dr. Marilyn Gaston, Director of the Bureau of Primary Health Care, and it is, indeed, a privilege to speak before you today, and I applaud the efforts of the Helsinki Commission on behalf of migrant and seasonal farm workers.

My professional career has been dedicated to improving the health of children and their families, especially poor and minority families. I assisted in the establishment of a community health center in Cincinnati, and served as its first medical director, meeting the needs of low income African- Americans.

I am now the Director of the Bureau of Primary Health care. As you heard, we are currently providing high quality, comprehensive, primary preventive health care for over 6,000,000 underserved poor, minority, disadvantaged people all across this Nation.

Since coming to the Bureau, I have actively supported a renewed focus on the health needs of the migrant and seasonal farm worker through our migrant health program. In spite of my previous experience, I must confess to you that I am still learning about the significant challenges we face in delivery of services to a mobile, multi-cultural population, with significant health problems.

I, like many in the country, first learned of this group of people on a Thanksgiving evening in 1960, when Edward R. Murrow presented the documentary "Harvest of Shame," exposing the bitter experience of the migrant condition.

Over the years, we have learned that this is not a stable population bounded in a specific geographic service area, but a population that is constantly on the move, and needless to say, this presents enormous challenges for health services delivery.

You can imagine the difficulties it presents in providing the continuity of care provided for adequate immunizations of children or oversight of chronic health problems, for example, diabetes.

A population on the move presents challenges for data collection, and although reliable data are limited, what we do know about the overall health status of these poor, hard working people is very disturbing.

In an attempt to provide a more complete picture, the Bureau was pleased to support a comprehensive study conducted last year of four migrant health centers in three States.

The study points out that the disease patterns of this population are similar to those found in the general population of the United States well over 60 years ago.

Migrant farm workers and their families are more likely to experience significant maternal and newborn health problems. They have high rates of parasitic and infectious diseases, including food and waterborne diseases, skin diseases, also chronic diseases, for example, hypertension, and the rate of diabetes is 300 percent higher than that of the general population.

A recent report of the Centers for Disease Control indicates the distressing fact that farm workers are approximately six times more likely to develop tuberculosis than the general population because of their substandard and overcrowded living conditions.

We are developing a strategy that recognizes this reemergence of tuberculosis as a major public health issue, and especially as it relates to the farm worker population.

The Bureau has a strategic plan to try to meet the health needs of migrant and seasonal farm workers. The key areas of this strategic plan are access, clinical and integration/collaboration. Our highest priority, both now and in the future, is increasing access to high quality, family oriented, culturally sensitive, community based primary health care for our migrant and seasonal farm worker population and their families.

The Migrant Health Act authorized the provision of primary and supplemental health services to farm workers. We have grown from an initial appropriation of $750,000 to an appropriation of $57.3 million.

Today, the 104 organizations we support operate health centers in over 400 locations, and we serve the needs of over 500,000 people annually. We attempt to fill a gap and create a network of health centers up and down the migrant streams where none had existed before, and we are all very proud that 1992 marks 30 years of health service to migrant farm workers through our migrant health program.

The migrant health program serves the most vulnerable among us through a community based system of care. The average farm worker earns less than $7,500 per year, and fewer than 18 percent are recipients of needs based social services, such as food stamps and aid to dependent children.

Their exposure to environmental and occupational hazards and substandard living conditions challenges the very fabric of our delivery system, a delivery system which must continue to face the serious challenges of recruiting and maintaining qualified health care providers, while also trying to keep up with the spiraling cost of care.

The migrant health program appropriation for fiscal year 1992 was $57.3 million. This permitted a $5 million increase to expand services directly to our migrant and seasonal farm workers.

Another key component of our access plan has been the revitalization of the National Health Service Corps to address major recruiting problems I alluded to before. The National Health Service Corps continues to place providers in settings which serve those most in need, and certain major placements go to programs serving migrant farm workers and their families.

We are also increasing our efforts to target and recruit multi-ethnic, multi-racial providers, and in addition, we are expanding our efforts to train students in migrant health centers so that we can try to expand the pool of culturally sensitive providers that are knowledgeable about farm worker health problems.

Another key component though of expanding access is to expand and facilitate financing coverage, especially under the Medicaid program. As was pointed out in the recent General Accounting Office report, farm workers who qualify for Medicaid face enormous barriers in enrollment procedures and administrative requirements.

Trying to get through the various enrollment and eligibility requirements as they move from state to state, as well as problems associated with the lack of transportation, inconvenient hours of operation and language difficulties, represent insurmountable barriers to most migrants.

We are currently working closely with Health Care Financing Administration to address these issues, and we are also planning to conduct a feasibility study of multi- state Medicaid reciprocity programs for migrant farm workers and their families.

Hopefully, the results of that study will form the basis for implementing a HCFA reciprocity program in several states.

The second area after access for our emphasis is clinical. The foundation of our clinical efforts are the Migrant and Season Farmworker Health Objectives for the Year 2000, a copy of which has been provided to the Commission.

Clearly, a multi-disciplinary effort is needed to improve the overall health status of farm workers in this country. The 15 health objectives reflect the agreed upon current priorities for migrant health service needs, covering such things as goals to reduce environmental health hazards, HIV infection and other infections.

We are also very proud of the efforts of the Migrant Clinician Network, which we have helped to support since 1984. This group is very important in providing guidance for the clinical issues as it relates to our programs and in sensitizing providers to the unique issues of the delivery of services to migrant farm workers.

And, I might share with you that as I travel around the country and visit our programs, I have found some of the most caring, most sensitive, and most committed providers that I have ever experienced in my career.

And, finally, integration and collaboration. Providing health care for America's harvesters requires major cooperation at every level, local, state and federal, and therefore, services integration and collaboration has always been a key goal of the migrant health program.

Since 1985, the migrant health program has been an active member of the federal interagency committee made up of the key federal departments serving migrants, as well as interested private advocacy groups like the Farmworkers Justice Fund.

We are very enthusiastic about our ongoing collaborative efforts that I have mentioned with HCFA on the problems of Medicaid coverage, and we are also working with the Department of Housing and Urban Development on the alarming housing conditions which most migrants experience.

In addition, our relationship with CDC is ever increasing. We have a joint evaluation project to provide technical assistance to our health centers on improving pre-school immunization rates, and we are working with CDC to target additional dollars for childhood vaccines and have an ongoing collaboration which is increasing on Hepatitis B, certainly on tuberculosis, and sexually transmitted disease initiatives.

We also work very closely with our sister bureaus within the agency, in particular, the Bureau of Maternal and Child Health on special material and child health activities and the Bureau of Health Professions to expand support of nurses in migrant health centers.

In closing, let me say the need is very great and much needs to be done. We will continue to build upon our long-range plan to, number one, improve access to care; number two, improve the quality of that care; number three, recruit and retain multi-ethnic, multi-racial health care providers; and, number four, improve integration linkages and collaboration at the local, state and federal level and promote public and private partnerships wherever possible.

Our job is enormous and growing, and the fact that states are suffering financially increases the burden on our programs even more. However, there's increasing recognition that our kind of health care, community based, comprehensive, culturally and linguistically sensitive, family oriented, primary health care, is the answer to improving access to quality and cost effective care.

It has been said that the farmworkers' struggle is still going on with the dignity, not to mention the lives, of so many people at stake. It has been waged by others in earlier years, even as it will be waged in the years to come.

I think all of us want to have a positive vision of the future for our farmworkers, founded on the belief that the gap between the promise of a better life and their current reality can one day be closed.

Thank you very much.

Ms. Fisher. Thank you, Dr. Gaston. That was very informative.

Now we have Louis True, Jr.

Mr. True. Thank you.

I am representing the U.S. Environmental Protection Agency.

The Environmental Protection Agency has recognized for some time that both migrant and other agricultural workers are inadequately and have been inadequately protected from agricultural pesticides and their residues. Therefore, we are pleased to say that after considerable effort, the agency did in August of this year issue final regulations which we believe are a major improvement and strengthening of the existing regulations to protect both farmworkers and the handlers of pesticides on agricultural establishments.

They are called the Worker Protection Standard for agricultural pesticides. These regulations will come into effect gradually over the next three years, and they will affect approximately 560,000 farms, forests, nurseries and greenhouses in the United States.

We expect roughly 3.9 million agricultural workers and pesticide handlers to be directly affected by these regulations.

The regulations substantially increase protections to these workers basically through three categories of provisions. Those are: first, the elimination or reduction of exposures to pesticides wherever possible; second, the mitigation of those exposures when, as is inevitable in the work place, they do occur; and, finally, through education and through the provision of information that allows workers to better protect themselves.

In the area of eliminating or reducing pesticide exposures, the regulations principally accomplish this through two measures. The first is a set of provisions dealing with what are called restricted entry intervals. These are periods of time after the application of a pesticide to a crop which must expire before workers may enter the area to perform hand labor.

The regulations do provide some exceptions to this prohibition, but those exceptions are under strictly controlled circumstances and with protections such as personal protective equipment and special training and decontamination provisions.

The second major category of measures to prevent exposure is the use of personal protective equipment, not just for workers who enter treated areas to perform hand labor, but also for the handlers of pesticides who may be exposed to the concentrate or directly exposed to pesticide spray.

The second major category of provisions that I mentioned was mitigation of exposures which will occur, and this is principally through two measures. Decontamination facilities must be made routinely available to such workers. This is the provision of water, soap and disposable towels in the field and/or at pesticide application sites. The second provision is called emergency assistance, under which agricultural employers will be obligated to provide both transportation to the nearest source of emergency medical care in the event of a pesticide poisoning. Employers must also supply necessary information to assist that medical care by providing the circumstances of possible exposure, the possible pesticides to which the worker may have been exposed, and other information that may be available to them, such as information for physicians which is present on pesticide labels.

Finally, there is a category of assistance which in a sense empowers workers to protect themselves by providing them with information about the hazards of pesticides and about steps that they can take to improve their safety in the work place.

Workers in agriculture who are exposed to pesticides will be required to be trained. There will be a requirement for a display of a safety poster which reinforces and repeats this training. There is also a fairly involved set of requirements for notification and warning of workers, both of impending applications and the location of such applications. It also includes notification of treated areas that are under restricted entry intervals--areas on the agricultural establishment which workers should not enter until the restricted entry interval has expired.

There is also a central listing of information available to all workers on the exact nature of the pesticide and date and place of application.

We expect that these new and significantly strengthened regulations will substantially reduce the numbers, which are difficult to define but which we know to be quite large, of health effects from both direct exposure to pesticides in the agricultural work place, and to residues of those pesticides in treated areas.

So, in general, we believe that workers and pesticide handlers will be or should be far more confident that they are safer from pesticides in the agricultural work place than they have been in the past as we implement these regulations over the next few years.

Thank you.

Ms. **Fisher.** Thank you.

Now we will hear from David Duran. Mr. Duran.

Mr. **Duran.** Thank you, and good morning to all, and members of this Commission.

I am David Duran from Beaver Dam, WI, and I come to you today as a former migrant farmworker who was born and raised in Eagle Pass, Texas, a southwest community along the Rio Grande, which is predominantly where a lot of migrant, seasonal farmworkers reside.

I am also here today as the current Chairman of the National Advisory Council on Migrant Health. The National Advisory Council on Migrant Health is a congressionally mandated advisory council which advises the Secretary of Health and Human Services regarding farmworker health needs and services. Comprised largely of current and former farmworkers, this 15-member council annually develops recommendations regarding migrant farmworker health and submits this recommendation to the Secretary.

The farmworker membership of the council and the council's advisory mandate make the council's role and perspective unique among farmworker health advocates.

It is important to know that in developing its annual recommendations, the council gathers information not only from migrant health centers, but from farmworkers, as well. In the last 13 months, we have held public hearings in Denver and San Diego in order to listen to farmworkers speak about their health needs and health service concerns.

The story is told. The conditions described are little different than those heard in 1952, when Senator Hubert Humphrey held 11 days of hearings around the country on migrant conditions. They are little different from 1961 and 1962 when the House and Senate held hearings considering authorization of what would soon become the migrant health program.

In its 1992 recommendations, the National Advisory Council on Migrant Health focused on eight areas of concern: housing, outreach, mental health, appropriations, Medicaid, and health professions, family issues, and research.

Each of you have a copy of these recommendations, complete with background paper on each area. So let me just highlight one area, due to the time constraints here.

It is the experience of health workers and advocates which provides much of the available demographic and health status information about migrant farmworkers. Very little research has been done on this population.

Even simple demographic data, such as size, race, ethnic composition, and the distribution of the migrant population, are very rough estimates. Reliable health status data are much more elusive.

Needless to say, this void of information impedes the effective planning and implementation of appropriate health care services. The council has recommended that at least one percent of the Public Health Service Section 329 evaluation funds be dedicated to migrant specific research efforts, and that every effort be made to secure resources from federal health research agencies, agencies such as the Agency for Health Care Police and Research, the National Institute of Health, and the Center for Disease Control.

Migrant farmworkers in this country continue to live and work in conditions generally thought to be characteristic of developing countries. Dilapidated, scarce and expensive housing has left the crowded and unsanitary conditions which have contributed to an infectious disease pattern unparalleled in other occupational groups in the U.S.

Long hours and physical labor in chemically and mechanically hazardous environments contribute to high rates of injury and chronic disease.

Nearly all migrant farmworkers live in poverty. Although these people make it possible for us to buy inexpensively most any fruit or vegetable we can want year round, most migrant farmworkers do not have enough money to buy the same fruits, and many are hungry and malnourished.

Virtually every injury or inquiry, I should say, into the health conditions of migrant workers cite the same litany of multiple and serious health problems. While the U.S. Public Health Service migrant health program has done an admirable job of providing health care services to migrant farmworkers since 1962, its funding is limited and, thus, is its capacity to meet the tremendous need.

It is generally believed that the migrant health program serves only about 12 to 15 percent of the national migrant and seasonal farmworker population. There is no general legal right to health care in the United States for the population. As such, there is no legal right to health care for migrant farmworkers.

Nevertheless, language from the CSCE documents concerning migrant workers assert the migrant workers should have opportunities and services available to them as they are available to other workers.

Unfortunately, this is not the case with respect to agricultural workers in the United States. Historically there has been a pervasive image of farmwork as different than other sorts of work. The classic manifestation of this is the fact that agricultural workers are exempt from a host of federal protective health and safety regulations which cover other workers.

On behalf of the council, I wish to extend an invitation to the Commission to attend our council's next public hearing to hear from farmworkers themselves about their conditions. This will take place on October 23 in Portland, OR.

Finally, I wish to share with you testimony given 30 years ago to a House committee hearing on health clinics for migratory farmworkers, and I quote.

"It is time we end this particular American tragedy. 'The Grapes of Wrath' should be a period piece, not a comment on the current American scene."

I want to thank this Commission for allowing me to provide this testimony, and I am truly honored to be here with you today.

Thank you.

Ms. **Fisher.** Thank you, Mr. Duran.

And now we would like to hear from Dr. Zuroweste.

Dr. **Zuroweste.** Thank you.

Good morning. I am Dr. Ed Zuroweste. I am a family physician from Chambersberg, PA. As the chair of the Migrant Clinicians Network, I represent the doctors, nurses, dentists and other front line providers caring for migrant and season farmworkers and their families in remote, rural areas.

A picture is worth 1,000 words. So I am going to show 30,000 words as I give my few remarks. These are pictures of migrant farmworkers.

I want to offer you this morning a glimpse of what it is like to be a migrant clinician who cares for those who work to put food on all of our tables. Farmworkers are wonderful people. They are smart. They are hard working, and they are survivors.

They are accustomed to doing without or receiving very little. Sadly, they have to be because we can do so little for them with what we have.

Our health centers function in isolation, not only isolated from one another, but from the larger mainstream health care communities. We do not choose this isolation, but in reality, we function as islands of care for an often misunderstood and undervalued population in communities where the local residents do not have adequate access to health care.

In addition, farmworkers are barred from traditional health care services by differences in their language, cultural differences, lack of local transportation, poverty, poor access to referral sources, and the absence of continuity of medical care and follow-up.

Migrant health centers are tasked with creating a viable, culturally relevant system of care, and they do a tremendous job with what they have, but what can you do with $100 per person per year? Because in reality that is what we have. That is the average spent on each farmworker in a migrant health center in a year, $100 for their health care.

And at current funding, we are able only to care for less than 20 percent of the farmworkers of this country.

The needs of these people is great, and they are ignored by much of America.

This slide is of the recent devastation of Hurricane Andrew in Homestead, Florida. Many of you saw some of the tent cities that were set up, and many of the migrant farmworkers had to live in these tents.

Well, this tent is an example of farmworker housing in San Diego, California during normal times. While working to feed us, migrant farmworkers survive in substandard housing. They labor long hours for low wages and are exposed to powerful, dangerous pesticides.

This is normal living conditions. There was no hurricane in San Diego.

This occupation takes its toll as seen in the incidence of parasitic infection that is 35 times more common than the general population. This is the sole water source for this family, that puddle in front. It is not surprising that 20 to 40 percent of all migrant farmworkers when tested have tested positive for intestinal parasites.

Now, with the rising rates of tuberculosis, and on the East Coast what we are seeing is 50 to 300 times more prevalence of tuberculosis than the general public, and we also see a lack of or late prenatal care for pregnant farmworker women.

As Dr. Gaston pointed out, farmworkers have a Third World pattern of infectious diseases, a pattern not suffered by the general public in the United States since early in this century, and the magnitude of these problems is complicated by the fact when clients finally do reach us for care, what might have been an uncomplicated problem, such as a simple hernia, has become severe. This is a simple hernia that has been left untreated for ten years that showed up in my clinic last year. He did not like this hernia. He has worked ten hours that day picking apples, but he had no access to health care.

Migrant farmworkers exhibit some of the worst dental manifestations of any population in the country. When they are asked, migrants and seasonal farmworkers place dental problems at the top of their list of health problems.

And this is not the worst of the worst. I obtained this picture by going out to a camp and asking if anybody had any dental problems. This is very common.

One of the most tragic aspects of migrant and seasonal farm labor is the labor that we extract from the children. Farmworker children are excluded from the protection provided in the 1938 Child Labor Act. Children as young as 10 years old can legally work in the fields in this country, and thereby annually 300 children die in work related injuries on the farm. Twenty-five thousand children are injured in farm accidents.

Data collection systems make it difficult to determine exactly how many of these children are members of migrant farmworker families, but we can be sure that many of them are because we have all seen them.

The problems farmworkers face can only be eased by a fundamental change in the economic dynamic that is currently in place. This change would include a decreased expectation by the American public for cheap food and the cheap labor needed to harvest it.

I worry about the migrant and seasonal farmworker, and I also worry about those of us who care for them. Migrant clinicians are dedicated people who, like farmworkers, are accustomed to working with very little. We are creative at doing more with less.

But we are frustrated in our efforts to serve the working poor. We are frustrated by the lack of sufficient dollars to address the escalating need in a time of rising cost in the medical industry. We are frustrated by the absence of reliable methods for tracking our clients who need continuing care. We are frustrated by the shortage of mechanisms for payment of medical care.

And although it is estimated that 90 percent of farmworkers qualify for Medicaid, fewer than ten percent ever receive any type of these benefits.

This situation is coupled with a lack of financial support for farmworkers when they are injured while laboring in the fields, workmen's compensation.

We are frustrated by a federal health care system that rewards numbers and not innovations of care.

Now, if I could wave a magic wand, and I have looked far and wide for a magic wand, and if I could wave that magic wand and provide health insurance to every migrant and seasonal farmworker in America today, they would still not receive the care that they so urgently need, and the reason is because there would not be adequate numbers of clinicians in rural practice to care for them.

And when I say clinicians, I am referring to all of those primary care providers, not only doctors, but nurses, dentists, nurse practitioners, physician's assistants, certified nurse midwives, health educators, all of those people who are out on the front lines serving the migrant and seasonal farmworkers.

Currently there is not a primary care infrastructure in this country for any of us, and those minority populations who are hard to reach in remote, rural areas are particularly unlucky. With the rise of HIV and the resurgence of tuberculosis, the picture becomes even more menacing.

As a volunteer migrant clinician, I am lucky because I can choose how I will serve. I have a private practice, and I give my time nights and weekends to take care of farmworkers in my community.

But for many of my colleagues that is not an option. They are shackled with outmoded delivery systems which neither nurture their development, reward their leadership, nor celebrate their sacrifices. Instead of being recognized for their service, they are sometimes viewed suspiciously, as striving for their own self-intentions or as professionally incompetent. Why else would someone want to work with migrant farmworkers?

There has been a lot of talk about finding the secret to retaining primary care providers. Unfortunately what retention too often means is capturing bright, young professionals right out of their learning programs to come to a rural area to practice for all of eternity.

We have to be reasonable. How many of us have had one job all of our lives? How many of us have lived in only one place and worked nonstop in a place that was so needy that we must be available 24 hours a day, seven days a week?

We are asking caring and compassionate human beings to function under circumstances where there is no rest and no one to take your place if you cannot go on. If one of us makes the difficult decision to leave a rural placement to do research or to accept a teaching position or to give our children ballet lessons, then we are considered a retention failure. There is no career ladder for migrant clinicians, and our leadership and advocacy efforts go unrewarded.

My colleagues, the unsung heroes of American health care profession, need your commitment to focus attention on these critical issues and help us to build a viable system of primary health care for the migrant and seasonal farmworker in the year 2000.

Historically, seasonal and migrant farmworkers have worked in a system that virtually constitutes, in my opinion, social and economic slavery. Until this injustice is recognized and this disgraceful system is changed, it will be impossible for health care providers to significantly improve the health care status of these undervalued members of our society.

Thank you.

Ms. **Fisher.** Thank you, Doctor.

And now our last panelist, but not least, is Valerie Wilk.

Ms. **Wilk.** Thank you.

I am going to hone in on the workplace hazards that farmworkers face and give you a couple of concrete examples, and then talk about some policy recommendations and issues facing farmworkers.

As has been mentioned, agriculture consistently ranks as one of the top three most dangerous occupations in the United States, along with mining and construction. The hired farmworker men, women, and children who work in the fields who harvest the crops, face a number of hazards in the workplace.

One of them that has been cited by the Commission is the issue of unsafe transportation. I brought a number of articles from around the country which I have placed out on the table in the hall that show various workplace hazards and articles about them, and some of the most graphic have to do with the unsafe transportation.

Our office has gotten a number of accounts of workers being killed or maimed from accidents, vehicle overturns, and crashes, and these situations are ones in which vans have had their seats and all their seatbelts removed so that as many workers as possible can be crammed into the vans. They are driven by unlicensed, uninsured drivers who are often intoxicated, and what happens is that these vehicles, and workers may be carrying sharp tools on their laps as they are being driven to the fields.

One of the cases that happened in Florida about a year ago was a van plunged into an eight foot irrigation ditch and seven Guatemalan farmworkers died. They drowned in the irrigation ditch.

Children have been involved in these transportation accidents, and workers. To boot, workers are charged for this unsafe transportation.

I am going to focus most of my remarks on pesticides. About 70 percent of the 1.2 billion pounds of pesticide products that are sold in the United States each year are used in agriculture. Farmworkers are on the front lines of this exposure to pesticides.

They absorb pesticides through their skin by touching the foliage and the produce that they harvest, which has been treated with the pesticides. Too often they are drenched with pesticide sprays by being required to work in the fields even as the fields are being treated.

They come in contact with pesticide drift when an adjacent field or work area is being treated, and they can get sick from this pesticide drift.

In terms of migrant farmworkers, the whole family may live in a labor camp that is located right in the middle of the field where they are working, and thus, the work place exposures and the living exposures are the same, and when the fields are sprayed, the housing is sprayed.

Too often workers may have to have their only source of water being irrigation ditches, and that water is contaminated with pesticides and with fertilizers.

Now, pesticide exposure can cause either immediate or acute effects or long-term, chronic effects. Some of the short-term effects are pesticide poisoning. Severe poisoning can cause death. Moderate and mild poisoning symptoms include things like nausea, vomiting, headaches, dizziness, muscle cramps, blurred vision. We have found that workers having these acute poisonings can go for months having recurring symptoms like headaches, fatigue, blurred vision.

In terms of the long-term effects of pesticides, human health studies, case reports and animal data show that these include cancer, birth defects, other reproductive problems such as sterility and menstrual dysfunction, miscarriages, liver and kidney damage, nervous system effects, such as problems with motor coordination or abnormalities in terms of thought processes, anxiety and depression, and also abnormalities of the immune system.

One of the crucial issues in terms of pesticides for farmworkers is that farmworkers right now do not have the right to know what is being used in the workplace. Now, the new EPA regulations, when they go into effect, will provide some particular information for farmworkers and training. Laws and regulations are only as good as the enforcement, and what we have found is that enforcement has been abysmal in terms of workplace regulations and laws.

In terms of current regulations, we have found that employers who are required to provide drinking water, toilets and hand washing facilities in the fields--we have gotten reports from organizations that have done surveys in, for example, New Jersey and North Carolina--and only a small fraction of employers are fully providing all of what they are required to provide.

In terms of right to know, farmworkers need to have the right to know what pesticides are being used, and also something that they do not have and will not be given in these EPA regulations is the right to take action when unsafe work practices exist.

This points out some of the problems with the current federal pesticide law. The law does not include a statutory provision for right to know for farmworkers. It also does not provide, and what is desperately needed is, a mechanism by which farmworkers can take action to require the employers to provide the protections that are required.

For example, by relying solely on federal or state agencies, we know that the enforcement has been very, very lax, and as I say, abysmal. Employees, the farmworkers, need to have the right to sue the employer if there is a failure to comply with the regulations and law.

In terms of hazard communication or right to know, one of the things that is in the works now is that with the worker protection regulations which will go into effect next year, EPA is requesting comment now on a section about hazard information or hazard communication, and the comments on the regulations are due on October 20th. One of the things that is crucial is any information that is provided for workers must be understandable by the workers, must be usable by the workers. Having solely technical information that is written for post-graduate researchers is not going to be useful for farmworkers. They need to know what the hazards are of the chemicals in their workplace and how to protect themselves.

I would like to highlight an example of something that is happening in Florida right now. In early 1992, the Florida Department of Health and Rehabilitative Services began to get reports from growers who had had crop damage by a fungicide called Benlate. It is a fungicide that is used quite heavily in the greenhouse and nursery industry in Florida.

And the state went out and interviewed all of the growers and their family members who had reported health complaints. Now, these health complaints ranged from things like cancer and birth defects to central nervous system problems like severe and recurring headaches, also respiratory problems, such as shortness of breath, sinus problems, nose bleeds, and also chronic fatigue and swollen and achy joints.

The health department interviewed these growers and their affected families, and they issued a report in September of this year, and they did not come to a definite conclusion of what was causing these health complaints, but they called on the EPA, the Centers for Disease Control, and the National Institute for Occupational Safety and Health to further investigate the situation.

The state did not interview any of the hired workers that were at those workplaces of the growers who reported complaints. Instead, what the state did do is mention in letters to CDC, NIOSH, and EPA that there were an estimated 120,000 nursery and greenhouse workers in the state, and that if they knew of the situation of Benlate and began to seek medical care, there could possibly be hundreds of cases of workers' compensation claims filed.

The Farmworker Association of Central Florida, which is a multiracial, multi-ethnic farmworker membership organization which is based in Apopka and has an office in Pierson, FL, has issued demands to the State about Benlate, to the state health department and also the Agriculture Department, as well as to federal agencies.

I have included in my statement a copy of their press statement, and some of the things that the association is demanding is this very right to know. They are demanding that a list of the growers who use Benlate be provided to farmworkers so workers can know if they were exposed and when they were exposed to Benlate.

And also the migrant health center based in Apopka, Community Health Centers, has written to the state and requested information because health care providers have not been given information on what to do if patients come in and describe these symptoms or say that they have worked in nurseries and greenhouses.

So both the workers and the health care providers need information.

We are working with both the association and the migrant health center as part of our farmworker health and safety training institute, which began this year and is funded by the W.K. Kellogg Foundation and the Nathan Cummings Foundation. We will be working with those organizations as we get more information. We have been providing them with information about Benlate.

One of the other points I would like to make is this problem with enforcement. We have seen that federal agencies have been dragged kicking and screaming into protecting workers or being required to issue regulations and to enforce them.

Lou True mentioned that the regulations, the EPA regulations, will go into effect next year, were issued in August. That was the result of eight years of effort, and in the last year, the U.S. Department of Agriculture was able to stall that process because they did not want the regulations to be issued.

We have problems with the regulations because there are a number of loopholes, and we are very concerned that, for example, yes, workers are required to be trained, but they only need to be trained once every five years.

In addition, there is a grace period before which workers have to be trained, and workers could be poisoned in that time before they get the training. It is a 16-day grace period during the first five years that the regulations are in effect, and then it will be employers will have six days in which to make sure the workers are trained.

One example of very egregious lack of enforcement of pesticide laws and regulations is an example from Arizona. A 1990 report by the state Auditor General's Office, which was asked to look at the enforcement record of all of the agencies in the state enforcing pesticide laws, found that officials routinely refused to investigate pesticide complaints of misuse. They discouraged field inspectors from doing so. They conducted incomplete investigations of complaints, and they even refused to fine even the most flagrant repeat violators.

That report shows a case of two farmworker children, one boy who was in a coma because he got into an area where pesticides had been illegally dumped, and the state only fined the employer $150, even though the child almost died.

One last thing I would like to mention is in terms of the migrant health program and the need for the migrant health centers to have the adequate technical assistance to be able to deal with environmental and occupational health issues.

An important component of the Migrant Health Act is that the migrant health centers provide environmental health services, and the recurring reasons for medical visits to the clinics are very much tied to the poor environmental conditions and the workplace hazards.

So the migrant health centers really need help in dealing with those issues, given their lack of resources and the time demands on the staff to provide the primary health care.

The Migrant Environmental Services Assistance (MESA) project, which is part of the Rural Community Assistance Program based in Leesburg, VA, has provided such assistance to migrant health centers for over 12 years, a very important service in terms of pesticide projects, field sanitation, housing assistance to the migrant health centers and to the areas where they serve farmworkers.

Farmworkers and their families must be protected from a harvest of illness, injury and death from exposure to poisons and from other deadly and unhealthy workplace conditions. These briefings by the Helsinki Commission are a valuable way to bring these conditions to the attention of the U.S. Congress and to the American people.

Thank you.

Ms. **Fisher.** Thank you very much.

I have just a couple of questions that I would like to start out with, and then we will open it up to the floor, and I would ask any of you who do have a question to put to the panelists to please use any one of the three mikes that are available.

Dr. Gaston, you mentioned that your primary goal was that of access, and one of the complaints that we are hearing is that workers cannot really leave to go get treatment because they are paid by an hourly wage, and they will get docked.

Are your clinics going to be open in the evenings? I mean is that part of your program, and do you find that workers are reluctant to seek medical treatment because they know they are not going to get compensated for the time that they miss during the day, and is there any way that that can be addressed?

Dr. **Gaston.** That is an issue. Many of our centers do provide services that are outside of the working hours. That is one of the advantages, we think, of having our community based, community controlled programs, in that our boards are very involved in helping the health centers set the hours and address the needs of the community they are trying to serve.

I think that with some increase in funding this past year that we had, albeit very small, one of the things we attempted to do is to provide programs with some additional dollars for outreach.

There is no question that we need to do more in terms of getting to the farmworker community, going to them, rather than sitting in our health centers waiting for them to come, and I think that is an important aspect of improving access.

Programs are beginning to request and get funding for mobile vans to go out into the fields and provide care right there, but we continue to be concerned about the fact that we need to penetrate better the communities we are trying to serve, and we are looking for innovative ways to do that better. Mobile vans is just one way that programs are choosing to do that.

Ms. **Fisher.** Do you find that the farmers, the growers, cooperate when you broach them with on-site field visits? Is there any problem?

Dr. **Gaston.** I have not heard of any, but I must say that I would yield to experiences from other panel participants.

Ms. **Fisher.** Does anybody care to comment on that?

Mr. **Duran.** Yes, we find traditionally that farmers do not always deny access. Obviously if the staff do go out to the fields, that does become a problem, but for the most part, they do have some access to migrant camps, and they frequently visit them during the evenings through their outreach programs, and so forth.

However, there are those instances where there are farmers that do prohibit staff from not just clinics, but from other agencies, from coming in and providing or attempting to provide services to the farmworkers.

Ms. **Fisher.** Then how is that brought to the attention of the authorities, or is it? I mean is there any recourse?

Mr. **Duran.** It is, but a lot of times they tend to look the other way, and down the seriousness of the situation. You have to understand that you are dealing with the local law enforcements, as well as many of the times those farmers are deep rooted in terms of politics, as well as access to those law enforcement agencies.

So a lot of time they do look the other way in a lot of instances.

Ms. **Fisher.** So it goes back to the point Dr. Gaston was making in her presentation about the need for cooperation at every level.

Mr. **Duran.** Most definitely.

Ms. **Fisher.** I have one question of Mr. True.

In your EPA regulations, you mention that workers would be given equipment or protective clothing. Will that be supplied free of charge by the growers?

Mr. **True.** The regulation does provide that all personal protective equipment must be not only supplied by the employer, but also inspected, cleaned as necessary, maintained--instance, replacing cartridges for respirators.

Ms. **Fisher.** Will you have mechanisms in place to see if this is being complied with?

Mr. **True.** Well, we have to remember that pesticides are already regulated, as Ms. Wilk indicated. The principal enforcement mechanism for the pesticide law at the user level is state lead agencies which receive grants from the government.

For the most part those are state departments of agriculture, and there is already an enforcement mechanism in place for this kind of program. It is technically called a misuse enforcement program. These are typically triggered by tips or complaints from affected workers.

This regulation will be subject to the same enforcement mechanism. For example, there is already personal protective equipment on individual pesticide labels which are enforceable. This regulation strengthens those and creates additional duties.

So now it is no longer an enforcement issue only if the personal protective equipment is not supplied. It would also be an enforcement issue if the personal protective equipment were not in adequate condition or did not fit properly, for example.

Ms. **Fisher.** Thank you.

Ms. **Wilk.** Could I respond to that also?

Ms. **Fisher.** Certainly.

Ms. **Wilk.** The reality is that personal protective equipment is not right now, even before these new regulations go into effect, is not provided for farmworkers. We have had testimony from workers who in the nursery industry, in the fern industry in Florida, who have had to work dipping ferns into vats of water that have pesticide solutions in them, and they are up to their armpits with absolutely no gloves, no protection.

It brings the importance of enforcement, but if what we have seen with field sanitation, for example, is that it is not the workers who are going to complain because they do not want to lose their jobs, and intimidation is a big factor.

So EPA and the state agencies are going to have to do a lot of inspections and get reports from advocacy organizations to make sure that the regulations are enforced.

One of the things about the new regulations that is very troubling is that, yes, there are requirements for personal protective equipment, but one of the loopholes is that there are situations where workers can go in for early--they are called early entry workers. They can go in before the reentry time has expired. This means that they are going to need personal protective equipment.

There is also a proposal for a special exception for the cut flower and the fern industry to allow workers to go in before the reentry time has expired and do routine hand labor, and we vehemently oppose such exceptions.

We see that if this happens with one industry, various other sectors of the agricultural industry are going to ask for similar exceptions, and the regulations will be further diluted.

Ms. **Fisher.** Did you care to respond to that, Mr. True?

Mr. **True.** Certainly. We should point out that in the discussion we had earlier about personal protective equipment, it is the agency's position that personal protective equipment for routine hand labor in fields is not appropriate; that we believe that there are too many incentives to remove it; that some personal protective equipment, in fact, carries its own risks.

So in designing the regulation, the agency tried to balance the realities of agriculture and the critical need to protect workers. As a result, there are really three categories of employees who are affected or which the rule addresses in different ways.

The first is field workers generally. Those workers are prohibited from entering a treated area during the restricted entry interval after an application, which ranges from a minimum of 12 hours, in the case of the restricted entry intervals that will actually be established by the rule, up to 3 days. There are already existing reentry intervals that are quite a bit longer than that for individual pesticides, which will be retained.

Those workers have no personal protective equipment requirements because we believe that the residue levels in the fields will be so low that there should not be such a requirement.

However, in the event that there are some hot spots in the field, spills or drift from nearby application, the agency is requiring that those workers be provided with decontamination equipment, for example, for routine washing of hands and face before eating and so forth.

The second category of workers are those that Ms. Wilk mentioned, which is those who perform early entry during very narrow, special exceptions set by the rule. Those workers must be trained before they undertake any such duties or enter any such areas. They must be provided with personal protective equipment, and all of the duties I mentioned before, to inspect, clean and maintain and provide that equipment does fall on the agricultural employer.

The third category is agricultural handlers. By the way, the agency has extended its definition of agricultural handler or pesticide handler to include flaggers, people who adjust or repair contaminated application equipment, and a variety of other categories of employees who customarily had not been treated as agricultural pesticide handlers.

Those individuals have a training requirement that is more intensive than that for either early entry workers or field workers. They, too, have personal protective equipment requirements with all the duties that I mentioned.

We do share Ms. Wilk's concern about early entry, that is, entry during a restricted entry interval. We do believe that under some circumstances it can be undertaken with care. Our concern is when that becomes routine, noncompliance with the requirements could be so widespread as to jeopardize the worker. That is why we have restricted it.

We do believe, however, that when it is a special circumstance that enough attention can be focused on it. The agency is mounting a significant outreach program to try to convey to agricultural employers the importance of these requirements. We therefore have reasonable expectation that personal protective equipment will be worn and provided and maintained as appropriate, and that the training will be provided.

If the evidence after a few years indicates that that is not the case, then the agency would certainly consider revising the regulations. I have to note, however, what a contrast the present regulations are to the existing regulations in which workers may enter treated areas during restricted entry intervals, or as they are now called, reentry intervals, when they are wearing clothes like all of us are wearing now, a long-sleeved shirt, long-legged pants, shoes and socks.

That apparently made sense in 1974 when those regulations were promulgated, but by today's standards, we consider that inadequate, and so this regulation, even where it permits entry into treated areas, provides vastly stronger protections for workers.

We do agree that understanding of these regulations, which are new and complex, and compliance with them is a critical element in their having any effect in the real world, and the agency is focusing a lot of resources on trying to see that that is done.

Ms. **Fisher.** Yes, the young woman in the back.

Audience Participant. I assume that the EPA and other regulatory agencies concerned with the health impact of pesticides rely on assumptions about standard applications to fields. I wonder whether there is any monitoring of fields to see if applications are, indeed, what they are expected to be.

That is my question.

Mr. True. When you are talking about foodstuffs, the agency not only sets application rates, but they set tolerance levels on harvested commodities. Those foods are monitored principally by the Food and Drug Administration.

I should mention in that connection that it is very uncommon to find pesticides over tolerance, that is, where the residues exceed the legal residue limits. It is more common to find pesticides being applied to crops to which they should not be applied. In general, that is a dietary risk concern as opposed to a worker risk concern.

That is not to say there are not errors. Farmers and pesticide applicators are human, and they can mix pesticides incorrectly, calibrate their equipment incorrectly, and all of that can cause higher residues and, for a variety of reasons, higher exposure to workers than we would anticipate. That is why the new rule has what I would consider just basic, prudent industrial hygiene measures for workers in areas contaminated with pesticides, such as that decontamination water be provided and that basic pesticide safety information be provided.

We cannot exclude the possibility of error.

Ms. **Fisher.** Yes.

Ms. **Rottenberg.** Hi. My name is Laurie Rottenberg, and I am with the Association of Farmer Opportunity Programs. I have a question for Mr. True.

Getting back to Val's concern about kind of the domino effect of letting one industry have early entry intervals, do you foresee additional petitions coming into that effect in light of the fact that the agency is still accepting comments on that part of the final rule, right? That they still want more information, more data on the entry interval, early entry interval?

Mr. **True.** Let me try to restate the question. What Valerie was talking about is that the agency in the final rule established a mechanism whereby anyone may petition the agency for an exception to the rule's prohibition of routine hand labor in treated areas during restricted entry intervals.

In that connection, the agency, at the same time that it promulgated the final rule, proposed the first such exception. That was for the cut flower and fern industry, as Ms. Wilk indicated. It was based on the information that the agency obtained during the comments it received on the proposed rule, which was issued in 1988, from the cut flower and fern industry, which persuaded us of two things at least tentatively. This was, one, that the economic consequences to the cut flower and fern industry of being unable to harvest flowers which often have to be harvested several times a day during restricted entry intervals, would be severe. There really was a concern that could not readily be dealt with through ordinary management, that is, scheduling of pesticide applications so that they do not coincide with the need to have workers enter fields.

And, the secondly, that the conditions in the cut flower and fern industry tend to lend themselves to personal protective equipment in two senses. One is they generally have some additional control over the environment, sometimes through ventilation, sometimes through shade provision, often through ready availability to running water, for example.

In addition, the tasks being considered, harvesting of flowers, usually with shears, were tasks which we felt could be practically performed wearing personal protective equipment, which in the case of an early entry worker is no less than coveralls and chemical resistant gloves.

There are other tasks which require hand labor, certain horticultural tasks for pinching off buds, for example, which we think could not be practically performed, and for which there would be a large incentive for noncompliance. Those are the kinds of uses where the agency will take a very dim view of any proposal.

Now back to your question, which is: do I expect other industries to request the same kind of exception which the agency is considering for cut flower and ferns? Yes, credible requests would be those, again, where pesticide use and hand labor tend to coincide in time.

So, for example, if there is a late season application of pesticides necessary and hand harvesting, that is where we might expect industries to come in and make a case before us.

But we need two things to be demonstrated to us: one, that the need is real; and, two, that workers can be adequately protected, before we would consider granting such a request.

Ms. **Rottenberg.** So then EPA is possibly considering granting that sort of thing to other agencies if those conditions are met?

Mr. **True.** For other crops, yes. Yes, we are considering it.

Ms. **Fisher.** I have a question for Mr. Duran, if I may.

You are chairperson of the National Advisory Council on Migrant Health, which makes yearly recommendations to the Secretary of the Health and Human Services Department. Do you find that your recommendations are well received and acted on, or do you find that it is a struggle?

Mr. **Duran.** It has been a long struggle. However, I feel that in the last, I would say, two years the department, I think, has taken us a little bit more seriously.

You have to understand that the historical perspective of this council has not always been very active. In the past this council had met only once a year, and within that one period, you had to compile and make recommendations, and consistently the council made recommendations, but not all recommendations were followed, followed up and followed through.

This council now has taken a very pro active approach and pretty much has demanded of the Secretary that more visibility and the council be allowed to meet more often to be able to discuss, to be able to gather information not just from migrant health centers, but also from the farmworkers themselves, because we see that as our mandate, that we need to find out specifically from them in terms of their concerns, as well, not just from the folks that are providing the services and the administrators who administer the programs at the Federal level.

We have come a long way. We have got a very long struggle ahead of us, and I think that we are making some waves, but we still have a long way to go.

Can I just point out something a little bit in terms of access? Because I was not very, very clear in terms of indicating there are a lot of states that do have some state regulations as it relates to access. Just to give you an example, in Wisconsin, we do have state regulations, and we have a very strong regulatory agency that does monitor very, very closely access to migrant camps.

It prohibits farmers and anyone from prohibiting any advocacy agency or any service agency from visiting with the migrants in their migrant camps.

However, those states that do not have regulations, and even those that do have, but do not have a strong regulatory arm, those types of abuses do occur, where crew leaders will deny access to anyone, and to the point of dealing with the migrant population as slaves.

Ms. **Fisher.** In other industries, in chemical factories, for example, are health inspectors allowed to just go in? I mean is that normal for industries or employers to be able to bar access like that?

I am just asking maybe Dr. Gaston or Mr. True.

Mr. **Duran.** I am not aware that there has been major problems in that, but I know that there has been instances where follow-up has not occurred on a timely basis, investigations. I am not aware that they have been denied access such as that, but I know that there has been problems when there is investigations in the fields or even in migrant camps. There has been problems in that area.

Ms. **Wilk.** Let me just say in terms of OSHA inspectors getting into factories and plants, I believe that they can get a warrant to go in. They notify the industry, but they have the right for access, yes.

Ms. **Fisher.** Yes.

Mr. **Hancock.** My name is Mike Hancock, and I work with Val Wilk at the Farmworker Justice Fund, and this is, I guess, directed at the members of the federal agencies, Dr. Gaston and Mr. True.

One of the problems that I think has been identified and, I think, is worthy of some further exploration is the whole question of coordination and integration of the various federal agencies, in particular, that deal with this broad range of farmworker health and safety.

We have the EPA dealing with pesticide related issues. We have HHS dealing with delivery of medical services. We have OSHA dealing with another aspect of health and safety; Department of Labor. It is just a sort of diffused and dispersed range of agencies trying to deal with this broad problem.

And I think an emerging recognition is that there is this lack of effective coordination among the various agencies on this, and I was wondering if Dr. Gaston or Mr. True would have any ideas on how that can be better coordinated both in terms of delivering services to farmworkers, but also gathering information about farmworker health and safety, trying to make some sense out of this difficult problem.

Dr. Gaston. There is no question, as I mentioned, this is a key aspect of trying to improve the health and everything else that is going on in terms of our farmworker population.

As you heard, the Council recommended to us, in particular, and to the Secretary that a high level interagency committee be established which would really begin to look at that issue across all of our agencies, and we fully support that approach and expect that at some point that will certainly happen.

But, again, as you say, that is not the only level where this has to happen. It has to go all the way down to the local level, and so we are trying to obtain input from our various consultants and advisory committees on how to best do that.

We are looking at innovative ways. One of the things we are starting as a bureau, is to--and this is new--is to put out in each stream a migrant stream coordinator whose job is to do nothing but to help promote that kind of coordination, integration, collaboration; where it is not occurring, to act as a gadfly to try to see that it does; and also inform us of what is happening.

It is a major challenge, and if you have some ideas on how we can best do it, we welcome them.

Mr. Hancock. Well, I do not have any ideas. I assume you are aware that the Administrative Conference of the United States has looked at this specific problem and has made some recommendations.

Has your agency or EPA or any of the others that you are aware of taken a position on those recommendations about coordination?

Dr. Gaston. Not that I know of.

Mr. True. Yes, I am not aware of any particular position the EPA has taken on those recommendations.

I would say I am sure I agree with you, Mike, that more could productively be done, but I would like to point out that in spite of scarce resources, EPA has tried to go beyond its regulatory requirements.

It may not be as much as we would like to see, but EPA does produce and distribute for physicians a book on the recognition and management of pesticide poisonings and does fund some training programs for health care providers in that subject as well.

We also look at the network of migrant health clinics as being a principal outreach resource for us, and with the new and much broader training requirements of the new worker protection regulations, again, we plan to support and exploit that network to the maximum extent we can.

But I agree with you that more needs to be done, and not just with the migrant health program, but also with OSHA, and there has been an increased pace of coordination activities with OSHA. A lot more needs to be done even in the pesticide area, I believe.

Dr. Gaston. Let me just mention, too, a lot more needs to be done, but under the leadership of Mr. Duran and the council's increased activity that he spoke to earlier, they are playing a major role in making sure that that comes about.

As a matter of fact, they have had a couple of meetings where they have brought Deputy Assistant Secretaries of HUD and various agencies to the table to discuss these issues for two days, and so we are beginning to see some progress, albeit slow.

Ms. **Johnston.** I am Helen Johnston. I was in at the beginning. Excuse me. I lose my voice every once in a while.

I was in at the beginning of the migrant health program, and one of the things I tried to find out was what had happened before us. Mr. Duran went back to the 1960's. That is the time when I really got started, but I found that people had been discussing the migrant health program, the migrant health problem as far back as the Theodore Roosevelt Country Life Commission.

The Theodore Roosevelt Country Life Commission made some of the same recommendations that you are making today in slightly different language, and we have been at it for more than 100 years. You could go back in the 1880's, and you could find recommendations being made to improve the conditions of migratory farm labor, as well as other farmworkers.

I think this is no credit to our democracy, and it is no credit to our democracy that we do have a Migrant Health Program which is a bandaid. It is a bandaid to take care of the problems that would not occur in other industry. They would not occur because workers in other industry are members of a community. A community has power.

Now, there was one effort in the past to give farmworkers that kind of power. It was at the beginning of the Franklin Roosevelt administration when the Farm Security Administration experimented with farm labor housing essentially to provide a community for farmworkers.

I cannot remember exactly how many such farm labor housing units there were scattered over the United States, but it was more than 100, and essentially, these were farm labor supply centers with housing that would accommodate a family that had safe water, safe methods of waste disposal. It had health care provided in the farm labor center on regular hours, and in some cases, nurses on the staff of the farm labor center.

It also had recreation facilities and day care facilities. Now, that sounds awfully ideal, and why didn't it last?

It did not last because people with power did not want it. The people were the employers. They were afraid of farm labor organization, and I am impressed with the fact there is nobody from a labor union here today because the labor unions should be in on this, and the labor unions should be doing something so that Dr. Zuroweste and some of the other physicians and nurses and all the rest would not have to take care of cases of otitis media, cases of poisoning, all of the things that do not need to happen if people have real community.

Ms. **Fisher.** Thank you.

I visited the Immokalee area earlier this year, and I spoke to an attorney, a very affluent attorney who lived in Palm Beach, who looked at me with tears in his eyes when he said the reason he took a pro bono case is because he was not aware of the devastating situation affecting migrant laborers, and he said, "It frightened me that this goes on in America, and we mustn't let it."

And he said, "I was afraid for my democracy."

Was there someone else with a question? Thank you.

Ms. **Misch.** Ann Misch from World Watch Institute.

This is a question for the EPA representative, Mr. True. I wondered whether the EPA in revising standards for farmworker exposure to pesticides took into consideration the potential effect of the synergistic combination of pesticides and/or cumulative impact of exposure over a prolonged period of time.

Mr. **True.** I was almost out the door. I apologize, by the way. I do have another engagement that I am going to have to attend.

The answer is that the agency recognizes that there are pesticides which do have synergistic effects or that there might be some. We do know that there are some certainly that have cumulative effects, such as the organophosphates. We also know that there are some that may have antagonistic effects.

It is not an area that is very well understood. In designing the regulations, we designed them basically to be prudent measures. There are some who argue, for instance, that the agency should not have required that soap and water and towels be supplied after a restricted entry interval had expired. Whereas the agency required them for at least 30 days after the expiration.

The agency's view is that there are unknown, unknown hazards from pesticides. They are not completely understood materials in many respects, including problems with interactions and cumulative effects, and that besides that, there are errors that happen. There are opportunities for exposure other than through contact with residues. That is, there could be contact through drift, through application to nearby areas.

And, therefore, the regulations were designed to be a prudent set of industrial hygiene measures that protect people against unanticipated hazards.

In terms of the more detailed issues of interactions with pesticides, however, we intend to try to deal with these on a case-by-case basis. We do not know of any way of dealing with them across the board.

I apologize that I have to leave, but Mr. Boland from EPA is here, who will attempt to answer any other EPA questions.

Ms. **Fisher.** Thank you very much, Mr. True, for being here.

Ms. **Yandy.** My name is Sharon Yandy, and I work in the Migrant Head Start Program in the Department of Health and Human Services, and I had a question for Mr. Duran about the abuse, the continual abuse of crew leaders, and I was wondering if your commission to the Secretary found that was a recommendation to resolve that problem.

Mr. **Duran.** Our council has not made a recommendation such as that, although at our next meeting, October, this month, we will be taking testimony, as well as considering what recommendations we will focus on for 1993.

Obviously we continue to receive alarming reports about major crew leader violations, as well as enslaving conditions around the country. We will have to take a look at that.

There has been other recommendations in the past, and it all depends on how the council advocates those positions and pretty much pro actively force action on the responsible departments to do something about that.

But that is something that is definitely within our scope, and we definitely want to focus on that. Whether that will be a top priority for our next year's recommendations, that will have to be left up to the council.

I cannot tell you directly, saying, yes, that is going to be one of our focuses, but definitely that is something within the scope that we will be discussing.

Ms. **Fisher.** Yes.

Ms. **Steele.** Hi. My name is Diana Steele, and I am with Pacifica Radio. I have a question for the EPA representative.

First of all, what is your position with the EPA?

Mr. **Boland.** I am Jim Boland. I am the Deputy Chief of the Occupational Safety Branch. That is the branch that is primarily responsible for implementing the worker protection regulations.

Ms. **Steele.** OK. We are all talking about the end product of exposure of migrant workers to pesticides, but how is that exposure considered in the approval of pesticides for use in the first place?

Mr. **Boland.** EPA requires the submission of data from registrants documenting the environmental toxicology, chemistry, animal studies, with specific toxicological end points. That data are evaluated by our science divisions, fed into the registration division, upon which a decision will be made to register, not to register or require additional data on the pesticide.

So it is a fairly complex and rigorous process that any given chemical candidate would go through before it is registered by the EPA, with health and environmental and other data requirements to be submitted and evaluated by the agency.

Ms. **Steele.** I guess I would also like to hear Ms. Wilk's comments on that.

Ms. **Wilk.** Yes, I would like to respond to that. You bring up a very important point.

The problem is that most of the chemicals on the market that are used for agriculture were registered before 1972. There are significant data gaps. We do not know what the health effects are, particularly the chronic health effects.

And I have looked through some of the EPA materials researching specific pesticides for farmworker advocates and unions and groups around the country, and it is appalling. The information that generally is missing is how much will be absorbed by the workers. How long does it take for it to dissipate in the soil? What exactly--you know, a lot of tests were done that are unacceptable by the agency and have to be repeated.

Recently in the news, there were reports of another laboratory that had falsified information, and the public was assured that this did not really affect the outcome or the safety of the chemicals, and the whole business of the testing and the fact that the pesticides that are on the market, only a handful have been completely tested for adverse health effects.

Ms. **Steele.** How can we further address that issue through the EPA?

Mr. **Boland.** Well, I think it is a matter of the complexity of registration itself. Also, I think it is a more complex world today, and EPA has a program to look at the old chemicals and fill in the data gaps.

Unfortunately, it is a fairly resource-intensive program and will take quite a period of time to complete. So it is not easily done, and we have been working at it for a number of years, and will continue to do so.

The worker protection standard establishes interim measures until those processes can catch up through registration and reregistration. So we think we have made some progress there.

Ms. **Steele.** In the whole process we give the benefit of the doubt to the chemical rather than the benefit of the doubt for protecting workers and protecting the public. It seems to me like it is a very important issue that needs to be addressed as soon as possible.

Thank you.

Ms. **Fisher.** I have a question of Dr. Zuroweste. How much of a problem is AIDS in the migrant population?

And then a follow-up question to Dr. Gaston. Is that part of your program as well, and what happens to a worker who is tested positive for HIV?

Dr. **Zuroweste.** Well, up until very recently, that has been a big question of ours. We are just now starting to get some concrete data on the AIDS problem.

AIDS, as you know, is mainly an urban problem, but it has gotten out to rural America now. There was just a very recent study that was just published this last week in the MMWR from CDC in Florida that did a screening on migrant farmworkers, and five percent of the farmworkers in the screening program were positive for HIV. These were unknown positives.

We did the same thing in Chambersburg, PA, last year, a screening program of farmworkers, and we found a little over 6 percent of our population was positive for HIV, and these are alarming numbers for us.

I think whenever we talk about the health status of farmworkers, we have to be very careful about making statements that are universal because this is a statement from Florida, and this is a statement from Pennsylvania. It does not mean that farmworkers throughout the country have a five percent incidence of HIV.

It is a very diverse population, and the East Coast migrant farmworkers are different than the Midwest stream farmworkers and the western coast farmworkers.

And so when I say these numbers, I am always concerned that someone will print that all migrant farmworkers or the national incidence of HIV in migrant farmworkers is five percent. That is not correct. In one population, one small population in Florida and one small population in Chambersburg, PA, that is correct.

But there is no question this is a virus that is being spread all over the country, and migrant farmworkers are not immune to that obviously. The scary thing is the second part of your question, is: what do we do with those farmworkers that are HIV positive?

Like many of the problems of chronicity that we see in farmworkers, continuity of care is an extreme problem. Public health for farmworkers is a real nightmare for us to follow people up and down the stream.

Our network has worked diligently over the last several years in trying to establish networks of clinicians and clinics and communicate the health status of individual farmworkers, but to this point, we do not feel confident that we are doing a real good job on that.

And a lot of it has to do with finances. You know, when you have $100 a year to take care of a farmworker, there are medications; there are X-rays, and so forth, and then trying to get innovative ways, telecommunications ways of following that, it is very difficult, and many of us are just--it is like Ms. Johnston stated that we are putting bandaids on.

This was supposed to be a supplemental type of a program, and it has become the only program for many farmworkers. We are just trying to put out the big fires, and the little fires are very difficult for us.

Dr. **Gaston.** Yes, the bureau does administer part of the Ryan White Care Act, Title III, which is the part that focuses on getting support and resources right to the front line programs for prevention, for counseling, for early detection and early intervention.

The agency administers--the agency being Health Resources and Services Administration--administers Title I and Title II of Ryan White. Title I dollars go to the cities; Title II to the states, and Title III, as I said, we are the only ones that fund programs directly to try to implement, again, that very important aspect, which is getting on the front end of things, if possible, in terms of prevention, early detection, and early intervention.

Audience **Participant.** I had one more question about the standards that were published in August. Were those published in Spanish or would the local level have to translate those?

Mr. **Boland.** The standards themselves were published in the Federal Register in English. We did produce a summary fact sheet of the standards in Spanish, which we distributed. We had a fairly widespread distribution of that.

We do plan to publish our training materials as bilingual. Also the safety poster that Lou True talked about will be bilingual, and we are also looking at initiatives to address other, perhaps minor, language groups that are employed in farm labor and have materials translated for them also.

Ms. **Fisher.** Yes.

Ms. **Mitchum.** Freda Mitchum with the National Association of Community Health Centers.

We represent a number of the migrant health programs that are funded through Dr. Gaston's department, and we have advocated for years for increases in the migrant health program appropriations with very limited success.

After 30 years of the migrant health program, we now have an appropriation that is not even 60 million for that program.

Given that the appropriations for migrant health have grown so slowly, despite advocacy for their growth, I am curious as to whether the Migrant Health Advisory Council has looked at recommendations for larger level reforms, such as employer mandated responsibility for health insurance for farmworkers or discussions of the creation of a farmworker health fund that might be contributed to both by employers and the government so that we could find some other mechanism for growth for coverage for farmworkers.

Mr. **Duran.** Yes, that is very much in our minds because as we see that our council had recommended for 1992 an appropriation level of 90 million, and quite obviously very, very short of that is what we are getting. We definitely will have to think of different strategies to somehow effect a change in Congress to have a higher appropriation level because $100 per migrant that is seen by clinics is ludicrous. It is ridiculous.

We definitely need the funding, and we definitely need to look at strategies as to how to approach this and how to create higher appropriations.

We definitely welcome your recommendations. I know that the National Association of Community Health Centers has been invited to talk to our council at our next meeting, and we would welcome any recommendations that you would have that we could incorporate into our 1993 recommendations.

Ms. **Mitchum.** Could you just comment on the aspect of employer responsibility for health insurance coverage and whether any subjective mandating employer coverage has been looked at in the past by the advisory council?

Mr. **Duran.** I am not sure whether before my history, anyway, whether that has been discussed. I know that we have discussed that issue as being a strong concern that any recommendation that we make, that we do not free up that responsibility of the employer.

That is one of the issues that the council has discussed, and hopefully will incorporate those kinds of recommendations into 1993. We just cannot let them off the hook. We cannot let anybody off the hook because the hard labor and sweat of our migrant population provide for this country's nourishment, and we cannot let that happen, to have these conditions continue.

Ms. **Fisher.** I am not clear on the extension of worker's compensation to migrant workers. I wonder if I might ask Dr. Gaston. Do you know if that is applied at all? Do they have any rights to worker's compensation?

Mr. **Boland.** I am sorry. Was that a question for--

Ms. **Fisher.** I am sorry. Mr. Duran.

Mr. **Duran.** The way it is not all farmworkers have access to compensation. Some states do cover, but not all of the states. It is not very effectively administered. So some of them do have the legal right to compensation. Whether they get it, that is a totally different thing.

Again, enforcement as well as access is a major problem in the benefit area, as well.

Dr. **Zuroweste.** I would like to comment on that also. As a practicing physician, that is one of our--and when I talk around the country, even in areas where workman's compensation is applicable, it is very problematic whether you get it or not. It is a constant battle for us when someone falls 30 feet out of a tree and injures themselves.

To get them on workman's compensation if they are only in the area for a very short period of time, by the time we get through the paper work and get through the linguistic problems and get through the problems with--the growers usually are not real, real helpful in that. I think that is probably said throughout the country.

If you looked at the number of farmworkers who should be given workman's compensation for injuries on the workplace and how many actually in fruition come through and get paid for that, it is a very, very, very small percentage, and it is one of our biggest headaches.

As a health care provider, we spend a lot of time sometimes working on those issues, and it is very, very frustrating for us. But we feel as advocates that that is one of the things that we have to do, but I constantly hear that one of the biggest headaches in the migrant clinics is trying to get their clients on workman's compensation when they so much deserve that compensation.

Mr. **Hancock.** If I could just add, I happen to know a little bit about this. Only in 14 states is worker's compensation required of agriculture employers. In most of the other states, it is totally voluntary on the part of the employer whether or not they provide worker's compensation.

Ms. **Fisher.** Is that just for agricultural workers?

Mr. **Hancock.** Just for agricultural workers, and so it is spotty, and in some of the largest agricultural states, like Texas and North Carolina, it is entirely voluntary whether or not worker's compensation is provided to agriculture workers.

Even where it is provided in some states, agricultural workers are given lesser treatment under the worker's compensation statutes and provisions, where they get lesser wage replacement benefits than other workers. So there is even exceptionalism in the worker's compensation system for agricultural workers.

And as Ed pointed out, even where it is provided, there are all sorts of barriers to agricultural workers actually perfecting and receiving the benefits under the plans.

Ms. **Fisher.** Thank you.

Audience **Participant.** I have got an additional question about the pesticide issue again. This will be for Mr. Boland.

In her testimony, Val brought up the situation of Benlate. I do not know if you were here for that part of the testimony, but what is EPA doing at the national level to address that situation?

Mr. **Boland.** I do not have specifics on that. I am sorry. I do not have the case information.

Mr. **Egan.** Hi. I am Jack Egan with Migrant Health Program.

I would like to ask my friend, Dr. Zuroweste, a question. If he could comment about whether or not you feel, Ed, that the organized medicine, like the American Medical Association or some of the other associations that represent organized medicine in our health care system, have done enough to portray this problem of migrant health to the American population.

Dr. **Zuroweste.** Well, since we are not seeing it all the time, I guess the answer would have to be no. The flip side of that is when we have gone, and I have gone to speak to the AMA and some other national organizations, what response I am always given is that they are very surprised to hear that these conditions exist.

I think we have been very invisible throughout the years in telling the story about what is really happening out there. I do not think it is reticence on the part of organized medicine to not promote this problem. I think it is ignorance more than anything else.

So it is up to us, I believe, to get that story out, and once it is, it is for them to carry the ball.

One of the things that the Migrant Clinicians Network has been trying to do, one of our mandates for ourselves is that we would get public awareness in the medical community much more visible, and we have done a lot of collaboration with the American Academy of Pediatrics, the American Academy of Family Physicians, and the AMA, and we are in our infancy stage, but we are now getting a lot of response from those organizations.

I think, as was said here, what we have done in the past, those of us who have been active in migrant health and the migrant farmworker world, is kind of all talked among ourselves for years and years and years, and we have not been squeaky enough of a wheel, I believe.

I think if this story is told that the American public and the American medical community are very ashamed of what has happened, and I think that the more we tell the story, the more hopefully that will be done, but up to this time, I think, as Ms. Johnston has pointed out, you know, we have been in a very stagnant period of time, and I think it is time to kind of brush the stagnation off and get very aggressive.

Ms. Gross. I am Adela Gross. I am with the U.S. Catholic Conference in the Office of Migrant Concerns.

And I am aware of many of the groups, such as Mr. Duran's, that offer recommendations to the government with regard to migrant health and other migrant concerns, and I am aware of the fact that next month, I believe, the Commission on Agricultural Workers will also submit a report that speaks to a number of the issues that you are speaking about this morning, and I know that they are recommending, for example, in the area of workmen's compensation, that it be extended to all of the states, and also with regard to unemployment insurance and so on.

I think I am making a comment more than asking a question, unless somebody wants to respond to this.

In the area of migrant health, they address especially the issue of the health of migrant children and make the observation that they think that they should have the same access to health care as do the children of any other U.S. worker, which in our present climate is not all that great a statement, I think.

Mr. Becerra. My name is Alex Becerra. I am with the National Council of La Raza, and I just have a minor observation.

I had an opportunity to read the material that was produced by EPA, the fact sheets, in Spanish. Also recently I have had an opportunity to read the material that was produced by the Federal Emergency Management Agency in Florida in the aftermath of Hurricane Andrew.

In both instances, I think the agencies are to be commended for trying to do an effective work of outreach, especially in producing material in Spanish.

I would make the recommendation that sometimes, especially with regard to farmworker populations and other Hispanic populations, sometimes the effort is a little bit deficient in that the material they say they are producing is in very highly technical terms or else it is poorly done, and I think better efforts can be made by the agencies in doing this.

At the same time, I think they are to be commended for doing more outreach because, as the lady said, many years have passed, and a key aspect of federal assistance is outreach.

Thank you very much.

Ms. Johnston. For the children, the American Academy of Pediatrics used to be interested in migrant children, and we met with them a number of times at their request to discuss the problems of migrant children.

Now, I do not know what happened, and maybe nothing happened.

We also used to work with the Rural Health Council of the American Medical Association, which I understand has been disbanded, but maybe we ought to promote reformation in the AMA and the reestablishment of some groups, such as that, that would consider not only the problems of migrants, but of other world populations which are still needy.

Dr. Zuroweste. I can respond to that.

The American Academy of Pediatrics, we were presented to them, and you are right. There was a void there for several years. We presented to them last year.

We now, the Migrant Clinicians Network, have a liaison person on the American Academy of Pediatrics Council, and they have a liaison person that will sit on our board also. So we have formed a very strong coalition with them now, and they are very interested in the migrant children.

Hopefully, again, we have to get these bodies all together, moving in the same direction, and so we have reinstituted that, and hopefully we are not going to let that fire die this time.

Ms. **Fisher.** Yes.

Mr. **Hogan.** My name is Pat Hogan, and I am with the Office of Migrant Education in the Department of Education.

My question is either to Ed or David.

We are trying to get farmers more interested in what we are doing and become more a part of our program, and I was wondering if on your advisory board if you have started working with farmers, and whether they have been a help or a hindrance, and is it a requirement that they be on your advisory councils?

Mr. **Duran.** Well, it is not a requirement of all advisory councils that they have growers on those councils, but our council does have some representation. Mr. Bill Garrison from Hendersonville, NC, who has served on our council for numerous years now, has been very, very effective and very, very helpful in presenting the growers' point of view.

However, it has been very difficult to get just the farm community to participate with advisory councils such as ours. It was fortunate that we do have him as a representation, but very limited.

We have invited the Farm Bureau. We have invited other farm organizations to meet with us to discuss some of these issues, and quite frankly, they have not shown up.

We will continue to work towards that because I think that is a mutual dialogue that needs to occur if we are going to succeed in improving the health conditions.

Even in talking about employer sponsored insurance coverage, we can make as many recommendations as we want to to the Secretary and to all of the departments, but unless we have that direct dialogue with them, we cannot do much.

Mr. **Hogan.** Yes. I think we need to realize that the federal government is doing for the farmers what a lot of other businesses have to do for themselves, I think, in education and in health and Head Start and a lot of the other projects that the federal government is paying for, and I think we can start to put an emphasis on working with the farmers more and more.

Thank you.

Mr. **Duran.** Thank you, Pat.

I think they have to understand that all of these programs are another subsidy to their ongoing subsidies to their crop programs, and they need to be brought in and sit at the same table to enter into some dialogue.

Ms. **Fisher.** Our next briefing will look at children and family issues, including education.

You know, this business of cooperation, it goes to the heart of the problem here. Political will goes to the heart of the problem here.

I have to believe that the American people, if they really, really sat down and thought about that grapefruit that they are eating at breakfast and the abuse of the workers who gave them that grapefruit, that they would want something to be done and something to be done quickly.

I have met many, many dedicated government workers. We have fine examples of doctors, of legal services people who are really the unsung heroes of America. There are a lot of dedicated people working on this issue.

But I think we need to be honest. We need to have political will in sitting administrations and in Congress.

Ms. **Wilk.** Could I add something?

Ms. **Fisher.** Yes.

Ms. **Wilk.** I wanted to add onto a couple of things that both Ms. Johnston and you from the Migrant Head Start said.

First of all, the farm labor unions have gotten more progress in terms of workplace health and safety through labor contracts. For example, the United Farmworkers of America got some pesticides banned in their workplaces before the EPA ever acted.

And currently the Farm Labor Organizing Committee, which is based in Toledo, their contracts for tomato and pickles, the pickle fields, include things, bans on particular pesticides, the guarantee of field sanitation facilities, and other benefits that nonunion workers do not have currently.

And unfortunately, only a very small percentage of the farm labor force is unionized, and there are laws that prohibit collective bargaining and organizing in agriculture, and so we can say that, well, we have to do for the farmworkers, but if there are barriers for them to work for themselves, those have to be addressed also.

And in terms of the farm labor contractors, employers must be responsible for the actions of the farm labor contractors. The employer can take a step back and say, "Well, I am not the employer. It is the farm labor contractor."

But employers hire those farm labor contractors, and they know the abusive conditions, the unsafe transportation, the conditions in the labor camps, the peonage that occurs, and they have to be held responsible for that.

Ms. **Fisher.** I would make the observation that that was one of the recommendations, as I recall, in the report that former Secretary of Labor Mrs. Dole made after she paid a visit to Immokalee, and she noted that that was one of the real problems, in addition to the lack of enforcement.

Unfortunately, that report does not seem to have been acted on.

Any other questions?

Dr. **Zalar.** My name is Dr. Mary Zalar. I am a physician, and I am past vice president of the American Medical Women's Association for the metropolitan area.

I will say that my observations, which are two, are only representative of my personal opinion and not of any organization.

Both through my training and my own volunteer work as a physician, I have had long-term exposure to socially compromised and medically compromised communities here and in Eastern Europe, and I would say, number one, that the most effective way of reaching any socially compromised community in terms of medical and health services is by outreach, whether you are talking about inner city Baltimore or Eastern Europe. I am not familiar with the migrant health community, but two of my sisters have been.

You are talking about outreach, and you are talking about community health centers.

My second observation is in terms of workmen's compensation. As a physician, workmen's compensation means diddle-squat to me in terms of monetary compensation, and that is not what I am looking at when I address this question to you or make this observation.

I really could care less, and the same is true of my colleagues about workmen's compensation. It is not worth the paper work it takes to get it finished or the time.

I would only say that a federal mandate on business, whether it is about workmen's compensation or some other component thereof, in my mind anyway, in my personal experience, is not a panacea. I think increased funding for community health centers and for outreach strictly from the medical perspective would be a better use of resources, and perhaps these farm subsidies which we have been so generous with at least during the ten years that I worked on the Hill before I went to medical school might be redirected toward community health centers and outreach programs to address the kinds of issues that have been outlined by the panel.

Ms. **Fisher.** Thank you.

Well, I think that we will conclude then. I would like to thank all of our panelists and those of you in the audience who joined us today.

You know, I have visited people all over the world whose rights are being abused, and I am constantly struck by the extraordinary ability of human beings to maintain their human dignity in spite of the abuse that is done to them. I think that migrant workers, if we would let them, not only contribute to the agricultural industry in this country, but they could contribute so much more to the value system of this country.

So I hope that all of you who have dedicated your careers to this issue will continue to do so and continue to push for greater public awareness of the issue.

Thanks very much.

[Whereupon, at 12:18 p.m., the hearing was adjourned.]

MIGRANT FARMWORKER CHILDREN

Friday, February 19, 1993.

Washington, DC

The Commission met, pursuant to notice, in room 2237, second floor of the Rayburn House Office Building, South Capitol Street and Independence Avenue, NW., Washington, DC, at 10 a.m., Jane Fisher, Deputy Staff Director, presiding.

Present: Jane Fisher, Deputy Staff Director.

Also present: Dr. Frank Corrigan, Hazel Filoxsian, William Gross, L. Diane Mull, Senator John D. Perry, and Wendell Rollason.

Ms. **Fisher.** We'll get started. I'm Jane Fisher, Deputy Staff Director of the Helsinki Commission. I want to thank all of you and all of our witnesses for your commitment and your fortitude in coming out on such a cold day to this, our third briefing on issues concerning migrant farmworkers in the United States.

We have had two prior briefings. Our first one looked the overall problems facing migrant workers. The second one focused primarily on health issues, including exposure to pesticides. Today we're going to look at childrens issues and education of migrant workers.

A final briefing, which we'll hold in a month or two, will address what we hope will be some solutions to problems that have gone on for far too long in this country.

I see a lady sitting in the back who at our last briefing stood up and said that she felt that it was like listening to a broken record, some of the issues that have gone on for so long and are still not being addressed by our country, which is a shame.

So, without further ado, I'm going to ask our panelists to give brief opening statements. And then at the end of the last witness' statement, we'll open the session up to questions from the audience.

We will start with Dr. Frank Corrigan. He is the Director of the Office of Migrant Education, the Office of Elementary and Secondary Education with the U.S. Department of Education, a position he has held since 1989.

He has served in various positions with the department for over 20 years, including Director of TREND, Targeting Resources on the Educational Needs of the Disadvantaged.

Dr. Corrigan?

Dr. **Corrigan.** Thanks. I appreciate the opportunity to be here and to describe the Migrant Education Program to you.

This program provides a wide range of educational and support services to migrant students, focusing on their special educational needs. We address two groups, currently and formerly migratory children.

Currently migratory children are those who have moved across a state or school district line in the past year with or to join their parents or guardians seeking temporary or seasonal work in agriculture or fishing. And formerly migratory children are children whose last move was in the past 12 to 60 months, namely 1 to 5 years after the first move.

The Office of Migrant Education administers four basic programs responding to the special needs of these students at different points in their educational development.

The largest program provides formula grant funds to the states to be used for supplementary education and support services to meet their special educational needs.

Funds are allocated through a statutory formula that is based on the number of eligible full-time-equivalent migrant children 3 through 21 years of age residing in the state within a calendar year.

This is also multiplied by the states' per-pupil expenditure within 80 to 120 percent of the national average. Over $300 million were allocated for this program in each of the last 3 years.

State program funds are used for remedial, compensatory, bilingual, and multi-cultural instruction as well as vocational and career education services, special guidance counseling, testing, health services, preschool programs, and other similar activities.

The demographics of this, the largest program have changed significantly in recent years. For instance, the numbers of migrant children identified for the program have increased from approximately 475,000 in 1985 to approximately 625,000 in 1991.

Our projections anticipate a further increase of 100,000 students by the year 2000. They also show an increase in the proportion of Hispanics among the migrant student population, rising from between 1985 86 to 1989 90 from 75 to 79 percent of the total number of pupils served.

Two other Office of Migrant Education programs, focus on helping students graduate from high school and to get through their first year of college.

The HEP, High School Equivalency Program, is designed to help individuals over the age of compulsory school attendance, usually after age 16, to obtain the equivalent of a secondary school diploma and subsequently employment or begin post-secondary education or training.

To be eligible, an individual or their family must have been engaged in migrant or seasonal farmwork or have participated or be eligible to participate in either the Chapter 1 Migrant Program or the Migrant and Seasonal Farmworker Programs. And he or she must not be currently enrolled in school. With an appropriation of approximately $8 million in program year 1991 92, there were 23 HEP projects with almost 3,100 participants.

The College Assistance Migrant Program can with an appropriation of slightly more than $2 million assist students who are enrolled in the first undergraduate year at an institution of higher education to complete their program and to obtain financial assistance, particularly from other resources, if they go beyond that first year.

The eligibility requirements for this program are similar to those for the HEP program. In program year 1991 92, there were seven CAMP projects around the country, enrolling almost 400 participants.

Another, the Migrant Even Start Program is a family-centered education program which involves migrant parents and their children ages zero through seven in a cooperative effort to enable parents to: (1) become partners in their children's education, (2) assist migrant children in reaching their full potential as learners, and (3) provide literacy training for the parents. In this program, priority is given to currently migratory children. Formerly migratory children are only served when space is available.

There are currently nine such projects, Migrant Even Start projects. And we anticipate up to six more may be funded next year. This program is the product of a three percent set-aside on the regular Even Start Program.

In addition to administering the programs noted previously, the Office of Migrant Education has a mandate to carry out special activities that enhance the interstate or intrastate coordination of migrant programs.

Under Section 1203, there are two mandated activities. One is the Migrant Student Record Transfer System, or MSRTS, as it's commonly known. This is a computerized data system which maintains individual records on approximately 1,200,000 migratory students, children, actually, from birth through age 21.

These records include academic, health, and related data on each student. The MSRTS central site computing and data storage facility has been based in Little Rock, Arkansas for over 20 years now.

There are 230 MSRTS data entry and retrieval terminals throughout the United States, generally in areas with a high concentration of migrant workers and their families.

The basic purpose of MSRTS is to assist migratory children with their education by quickly transferring these students' up-to-date academic and health records from school to school as the children migrate with their parents who are seeking work.

In addition, MSRTS provides student full-time-equivalent counts, which are used by the states and the Federal Government in determining that allocation which I mentioned in regard to the formula a minute ago.

The second 1203 mandated activity is the National Project for Secondary Credit Exchange and Accrual. As they travel with their parents, migrant students attend many different schools and often encounter difficulty in meeting graduation requirements and receiving a high school diploma in a reasonable period of time or usually on time with their class.

The ultimate goal of this three-year credit exchange project is to develop a system in collaboration with individual states, schools, and national education associations that allows migrant students to retain and accrue credits as they have earned them.

Other projects under Section 1203, the coordination authority, are a Stopover Site and the Program Coordination Centers. The mission of the Migrant Education Stopover Site is the enhancement of inter and intrastate coordination among migrant education programs.

Some of the main functions of the center are identification and recruitment and enrollment of migrant students as they travel with their parents; informing receiving states about migratory farmworker families traveling through the country to the states; and providing migrants with information on educational opportunities and health and social services information available to them at different destinations they may be headed for.

Lastly, the Program Coordination Centers, which were created to improve inter and intrastate coordination among state and local education agencies, are designed to provide services to them as they try to structure programs for migrant students. The Program Coordination Centers: establish activities to strengthen capacity of state and LEAs to meet the needs of migrant children; facilitate the coordination of inter and intrastate programs and projects; enhance the delivery of academic and support services to migratory children and their families; and collect and disseminate information on everything from exemplary practices and programs to other materials that would help in the inter and intrastate coordination of services' delivery to migrant students.

Based on poverty, mobility, limited English proficiency, and other circumstances unique to migrants, the Office of Migrant Education supplements and adapts existing educational services for migrant students by creating additional service systems and coordinating all services to which they are entitled.

Thank you.

Ms. **Fisher.** Thank you, Dr. Corrigan. You have reviewed an impressive approach to this problem. And I'll be interested in exploring it further with you.

Now we'll hear from Senator John Perry, who is a Senior Project Consultant for the Interstate Migrant Education Council, an 18-state consortium that advocates for migrant students and promotes interstate, interagency, intergovernmental, and public/private coordination for programs for migrant families.

He represented Rochester in the New York Senate from 1975 through 1992 and is a member of the New York Job Training Partnership Council.

Senator Perry?

Senator Perry. Thank you very much.

I was impressed by Dr. Corrigan's testimony. Being a state legislator for 18 years and working on education committees, I know the importance of really understanding the formulas and the statutory language which drive programs.

Dr. Corrigan has explained this. Whether you understand it is another thing. But I can tell you that to really understand the migrant situation in relationship to education, you have to go back to that testimony and cull out the formula and see how that impacts the program. I may allude to some aspects of that in my testimony.

I understand you have my written testimony. I will comment on it in essentially the same order as the written testimony is constructed. First of all, I'm here as a consultant to an organization known as the Interstate Migrant Education Council.

As was mentioned, it's a consortium of states, of 18 states, with over 80 or 85 percent of the migrant students in the nation. We are primarily interested in education issues. That's why we operate under the authority of the chief state school officer of each of these 18 states.

We're primarily interested in education issues, but because we understand that the learning of children is affected by so many other things, we are interested in all aspects of the migrant families' lives, whether it be housing or working conditions, health care, and so forth.

Each state in our organization has three or four representatives, depending upon the number of FTEs, the number of migrant students, in the state. These people are usually advocates for the Migrant Program.

The migrant education director serves in our organization from the state education agency. A chief state school officer serves from the State of Washington, Judith Billings, several state legislators, state board members.

At the present time we have five members of Congress who serve in this organization. Congressman Ford is the chair. Congressman Goodling serves as a representative from Pennsylvania. Congressman Sawyer from Ohio was recently appointed by Ohio.

Two of our IMEC members who were State representative, Maurice Hinchey from New York and Carrie Meek from Florida, were elected to Congress this year. So in that sense, the organization has a political outlook or at least an awareness of how that process works.

What we do is to use the experts in migrant education to examine the critical issues, and then use the expertise of the council members to develop strategies to resolve those problems.

So I would like to focus on two issues that IMEC, the Interstate Migrant Education Council, has highlighted as critical problems. The first is funding. The second is coordination of services or, a better way of stating it from our perspective, the first is the lack of sufficient funding and the second is the lack of sufficient coordination of Federal programs.

First of all, funding. The key to understanding the funding issue is to understand that even though migrant education is a part of Chapter 1, the funding is completely different than Chapter 1. Chapter 1 is driven by census data. Migrant education is driven by annual identification of students.

Each year the program, State by State, must identify the students. And then by the identification of students and the time that they are served developing full-time equivalencies in the state with some other things thrown in, as Dr. Corrigan mentioned, then there is the determination of how much money each state gets out of the $303 million that were appropriated for this year.

Before 1981 there was one type of formula. And after 1981, there is a new type of formula; in essence, to be as simple as possible. Prior to 1981 every child that was identified by a state received funds. So it was almost an entitlement program.

So the programs could go out. If you identified 100 new students, you would get a certain amount more money right off the top of the appropriation that Congress made for funding of Chapter 1.

In 1981 with the Education Consolidation and Improvement Act of the Reagan administration, that formula was changed. And in a sense what happened was instead of migrant education being an entitlement program it became like other programs, an appropriated program. Congress makes a decision to appropriate a certain amount of money.

Then the FTEs drive the allocation of the appropriation. So that if a state has 10 percent of the total FTEs, they get 10 percent of the 303 million.

And if they increase their FTEs by 20 percent, we'll say, and on the average all of the other states increase their FTEs by 25 percent. They actually get less money for recruiting more children. That is what has been going on for the last 12 years. This is the simplest way I can say it.

Dr. Corrigan has indicated that the numbers of people are increasing. The numbers of children, the FTEs, have gone up considerably.

In 1980 the FTEs were 428,000. In 1992 the FTEs had increased to 773,000. That's an 81 percent increase in the full-time-equivalent students.

Funding in 1980 was 266 million. And in 1992 it was 303 million, an increase of 14 percent: 81 percent increase in FTEs, 14 percent increase in funding over the last 12 years. So the programs are finding kids, but they can't serve them or, else, they have to diminish the services.

So what is happening because of the Federal funding formula or the change in 1981 is we're getting the phenomenon of under-identification. A lot of people aren't being served.

Last year there was a National Commission on Migrant Education, on which Wendell Rollason served. There was also a study commission by the department done by Research Triangle Institute.

Both of these studies had indicated that there are probably far more migrant children out there than are being served. What those numbers would be and what the methodology is, I can't answer that question, but maybe the two other gentlemen might be able to allude to that.

So the other issue, as I see it, on under-identification is there has been a tendency of the program to serve settled-out kids more so than currently migrant kids. Everyone generally agrees--and Dr. Corrigan mentioned--the program can serve both those people who have moved within the last 12 months and those people who may not have moved but moved once within the last 5 years. They can get services up to five years after they stop. People go in and out of the system. That's a whole very complex issue.

If you have a person that you can identify in Dallas who has settled out and is going to one of the schools in Dallas all year long, but they traveled within the last five years, they are eligible for services in the Migrant Education Program, and they pick up one FTE.

Now, to find someone in a rural area who is currently migrant and may only be in a state for a couple of months is much harder, takes money to find them, to identify them. This is particularly true in the northern states, where people are coming in and going out.

I think the evidence would be it probably costs more on a per-day per diem basis to educate a currently migrant child in a supplemental way, although I would seek other counsel on that.

The point is the programs know that if they recruit a bunch of kids, they probably won't serve them. They're trying to maximize their FTEs. So they recruit the kids that are easiest to recruit--and those are the settled-out children--which is really a denial of the intent, I believe, of Congress to serve the currently migrant up front.

Another issue associated with the funding is relatively small States. There are several States that get less than a million dollars.

How many, Frank, 14?

Dr. **Corrigan.** Fifteen get less than 500,000.

Senator **Perry.** Fifteen get less than 500,000. And it may be up to 20 that get less than a million. So if you want someone to run the program, you have to pay them some type of a salary.

But then to operate a recruitment process in a state like South Dakota, big state, but to operate a recruitment process, to identify where these migrants are in these states--and I think South Dakota is one of the states that's close to 500,000--is virtually impossible.

And so we're under-identifying even more. And because they're under-identifying, they don't generate funds. And, therefore, it's very difficult for many of these states to operate a program.

You might ask, "Well, if they have so few kids, why do we operate a program anyway?" Well, you can't think like that in this program because with the currently migrant, they're settled in the south. They're moving through the north, the middle states and to the north. And you don't have a program unless it affects the whole nation.

If you have a relatively small amount, three or four thousand children in Minnesota or something, that's the important part of the program because there are several states in the north that have those programs.

And if you don't have those programs, then you don't have a migrant program because you're not dealing with kids, for example, who come into New York from Florida and they get there until the summer and they stay until picking apples is over with in October and then go back to Gainesville or some place and miss two and a half months of school in Florida.

So if you don't have a northern program, you're not going to have a national program. So all of these are very critical issues for the services rendered.

The consequence over the last 12 years is there has just been a dramatic decline in the funding per FTE. I can't really document state by state what this means to children, but I can look at the aggregate numbers. That's what I'm telling you, that this is something that I believe the United States Congress should deal with to properly serve these people.

I should also note, and I can't emphasize enough--remember, this is a supplemental program--the states provide the basic program. And these children have rights to be in school, certainly. That doesn't mean that those rights are always lived up to fully.

States themselves provide very little money for migrant families. They provide the basic program, but the real money comes from the Federal Government. If it weren't for a Federal program, there probably would be nothing done for migrant students as a specialty in states.

Now, I must say that the State of Florida, where Wendell comes from, does provide money for early childhood. California does provide some money. There are some small funds from states that go in, but it's not high priority by state legislatures, especially for currently migrants and especially in the north, where people know that they're just coming and going.

I have indicated in my testimony and I would say this as an educator and as a legislator it is my judgment the tragedy of this is not only for the children, but the tragedy is what I have seen in the Migrant Program makes it a model program for Americans.

Migrant educators were acting the way people are now suggesting regular education should act in the reform movements of the late 1980s. Before we had the reform movements, migrant educators were dealing with the whole child because they couldn't provide food and clothing, and health services to an extent.

They were dealing with the whole child. They were actively involving parents in the learning process; in my judgment, beyond the letter of the law.

They were providing flexible schedules. You have to when you're dealing with families under these circumstances: early morning classes, summer school classes, evening classes, weekend classes.

Simply, the Migrant Program has been developed to meet the needs of the families and not to force the families to fit into the system, which is what we're saying has to be done in urban America to stop the dropout problem and to stop the chaos of education in the major cities of America.

So there are still many critical problems. But the program in my judgment is a model program for America. They could do much more for the children, the migrant children, if they had sufficient funds.

There are those things that I've listed in the testimony that these children still face: health problems, pesticides, housing problems, travel problems, attendance problems, language problems. The litany goes on and on and on and on.

Whether they're the most disadvantaged or disadvantaged, I don't know, but they certainly have tremendous challenges and obstacles to overcome to get a full education.

And so I would say that our council advocates considerably more money. We advocate full funding on a formula basis, maybe a big boost.

I'm sure that any congressman would blanch at the idea that we're saying if you really want to do the job for these children, you should fully fund the program such as it was before 1981. That would be an increase from about $300 million to $900 million, $600 million formula-based.

The second area is the area of coordination. As a legislator, this is something that really I can get into because I understand how these things occurs.

I've done a lot of work in my life in job training, and I know that what's happened here is very similar to what has happened in job training. You have a bunch of programs that were started with good intentions under different pieces of legislation at different times, different departments with different jurisdictions.

And I know that even sometimes with administrations that they thought were hostile to the programs, the Congress tried to hide some of these programs in the bureaucracies.

There are four major migrant programs. The Migrant Education Program is the major one in funding. There is a Migrant Health Program. There is a Migrant Head Start Program and the Job Training Partnership Set-Aside, the 402 Program, which will be discussed, in the Labor Department.

There are other programs, minor programs, that Frank mentioned. They are under the jurisdiction of Education: Even Start, HEP, CAMP, High School Equivalency, and the College Program. There's a housing program, which I don't know much about myself.

There are 10 programs in total, four major, six minor, scattered over HUD, DOL, U.S. ED, and Health and Human Services. Head Start and the health programs are in Health and Human Services.

Now, the need for coordination is phenomenal. Dr. Corrigan talked about the efforts now to develop transfer of credits at the high school level. This is something migrant educators have been working on for 15 years.

Now, at least, the federal government has funded a project to try to resolve that. But in the education program, it takes the coordination of 50 states and hundreds of local requirements for graduation and different courses.

The ninth grade course in Florida in social studies I'm sure isn't the same course that it is in New York State, but there are people who come from Florida and go to New York.

If they're only in New York for 12 weeks taking ninth grade social studies, which is Africa and Asia, as I recall, how do you transfer that credit back to Florida if Florida's ninth grade course is whatever it is? I don't know. Maybe it's the history of Florida, for all I know. I mean, there's no relationship.

So you try to do this. It takes a lot of effort. And what it takes is a high visibility to accomplish these things.

Special education. I have mentioned that in my testimony. This is a project in which our council has worked. Here you're dealing with a small group of people, migrants, and then a smaller group who are handicapped, trying to provide services for them as they move from State to State. Almost impossible!

The evidence that we have developed is that still, even though we have tried to highlight this, only one or two percent of the migrant children in school are receiving special education services. And the norm in America is 10 or 11 percent. So they're under-represented, and it's a very difficult process. It takes coordination.

I know. We have brought migrant education and special education directors together and found out they never talk to each other, even though they're in the same building.

I know I'm going on too long. I will just go on in the coordination to point out that the whole zero to five issue now is very important. Fortunately, in this administration, I think this will get its just due.

There is a Migrant Head Start Program. There is an Even Start Program. There is an Education Program that serves 3- and 4-year-olds. It should be brought together.

There may be a breakthrough in this area because last week there was a meeting between Migrant Education and Migrant Head Start, but it's not going to be easy because the two programs are administered by two different departments.

You have received testimony on the health problems. The IMEC council is very interested in all of these issues, but it really is difficult dealing with other departments, other jurisdictions, or other philosophies.

Border issues. I must mention this because this may be the most important thing that we relate to the Helsinki Commission. The international migrancy between Mexico and the United States is causing horrendous problems in Arizona, New Mexico, and Texas: housing conditions and health conditions.

There's no one in charge in a sense. How do you get a handle on this? You've got two jurisdictions, the United States and Mexico, national governments, several states.

And then the problems affect the Labor Department, the Health Department, HHS, and the Education Department, and Housing. In Congress the committees don't fit in these jurisdictions. It's a mess.

But these people are traveling throughout the United States, going to Michigan to pick cherries. Many of them have--I don't know the incidents, but there are incidents of communicable diseases of these people who are traveling.

This is a nationwide problem. And we don't have a system to deal with it. That's why I recommend that the commission look very closely at what is known as the ACUS report of last year, the Administrative Conference of the United States, where they go through all of these 10 programs, look at the definitions, look at the legislative structure, look at the problems, and then they call for a solution, a coordinating solution.

I think at least there has to be some type of advocacy at a higher level. The integrity of the programs can remain within the departments, but somewhere up here, when this administration is dealing with Mrs. Clinton dealing with health care, there should be a migrant input on health care.

And when the Labor Department starts their apprentice program in combination with education, there should be migrant input. And if we get a job service program that the President wants, there should be a migrant input. And if there are new housing policies, there should be a migrant input.

But there isn't going to be a migrant input in those major thrusts of this administration unless all of these people down here have some voice up here under some form. So that is something I would hope the commission would consider.

I've gone twice 10 minutes. Thank you.

Ms. **Fisher.** That's very interesting. Thank you, Senator Perry. You're illustrating what has been a pattern through all of these briefings, lack of funding, but, most importantly, a lack of political will. If there were political will, we would get some of these things addressed in a far more efficient and prompt manner.

Let's hear now from Mr. William Gross, who is Acting Assistant Administrator for Program Operations, Wage and Hour Division from the U.S. Department of Labor.

Mr. Gross?

Mr. **Gross.** Thank you.

I want to address a little different area related to the employment of minors. The Wage and Hour Division is responsible for administering and enforcing the Fair Labor Standards Act, which is the general minimum wage and overtime law that also prohibits the employment of oppressive child labor.

The statute has different provisions for child labor relative to agriculture, as opposed to other employment. I think it's important to understand those differences. What I intend to do this morning is to try and identify those differences for you.

Under the general provisions for child labor, 16 is the minimum age for employment. Individuals 16 years of age and over may be employed for any number of hours, but 16- and 17-year-olds may not be employed in occupations where the Secretary of Labor has determined that those occupations are hazardous. We have hazardous order occupations defined in the regulations where it is prohibited for 16- and 17-year-olds to be employed.

Below that, 14- and 15-year-olds may be employed under regulations that are issued by the Secretary of Labor where it has been determined that it will not adversely affect their schooling or their health and well-being.

Through those regulations, we have placed hours limitations on the employment of 14- and 15-year-olds in addition to occupations that are determined to be hazardous, in which 14- to 15-year-olds may not be employed.

There is a parental exemption, where minors may be employed by their parents. However, minors employed by their parents may not be employed under the general child labor provisions in hazardous occupations.

The statute provides, as I said, exemption from the general child labor requirements for minors employed in agriculture. Under the statutory requirement for minors employed in agriculture, the minors 16 years of age and over may be employed in any farmwork and at any time. There is no limitation on the employment of minors 16 years of age and over in agriculture.

Fourteen and 15-year-old minors may be employed outside of school hours in occupations that have not been declared by the Secretary of Labor to be hazardous. Again, I'll get to those in a minute, but we have declared a number of occupations in agriculture to be hazardous. So that the 14- and 15-year-olds may be employed. No limitation on their hours, but other than it must be outside of school hours.

Twelve and 13-year-olds may be employed outside of school hours in nonhazardous farmwork with the written parental consent or on the same farm where their parents are employed.

Minors 11 and under may be employed outside of school hours in nonhazardous farm jobs with written parental consent on farms where the other employees are not subject to the Fair labor Standards Act minimum wage requirements.

This is a big distinction between agriculture and the nonagricultural requirements. Minors may be employed at any age in agricultural employment with their parental consent on farms owned or operated by the minor's parents. This includes working in hazardous occupations.

So, unlike the statutory requirement for nonagricultural employment, minors working for their parents on the farms owned or operated by their parents may be employed in any occupation.

Let me briefly run through some of the hazardous order occupations. I won't go through them in their entirety, but I'll run through them quickly.

The first one is the operation of equipment, tractors over 20 horsepower, including attachments to the tractors, corn pickers, cotton pickers, grain combines, hay mowers, and so forth.

The second hazardous order occupation deals with working in yards, pens, or stalls that are occupied by a bull, bore, or stud horse.

The third one deals with the filling, skidding, loading, unloading of timber.

The fourth one deals with working from a ladder or a scaffold, including picking of fruit at a height of over 20 feet.

The fifth hazardous order occupation includes driving, driving a bus, truck, or automobile when transporting passengers, or riding on a tractor as a passenger or as a helper.

The next one includes working inside fruit, forage, or grain storage designed to retain an oxygen-deficient or a toxic atmosphere.

And the last one deals with the handling or applying of any pesticides identified with a warning label.

In our enforcement of the child labor provisions, not only in agriculture, but also in nonagricultural employment, we have a staff of over 800 investigators throughout the United States, where we conduct investigations in both agriculture and nonagricultural employment.

Any investigation that is conducted by the Wage and Hour Division will include an investigation for illegal child labor employment. This includes every investigation that we do in agriculture. As part of that investigation, we will inspect records, interview employees, and look for illegal employment of minors.

We do this in response to complaints. Any complaint that we receive, especially relative to child labor in agriculture, will generally get priority consideration. We will investigate those complaints almost immediately. But, in addition, we have targeted enforcement, where we will direct our enforcement in areas where we often do not receive complaints.

I think in some of the earlier testimony in previous meetings, it was indicated that we generally do not get a lot of complaints relative to agricultural employment. Similarly, we don't get many complaints relative to child labor in agriculture.

So we have directed or targeted enforcement at those areas. And as part of that directed program, we will target the employment of child labor in agriculture as well.

So we are, I think, very serious about ensuring that employers comply with the standards that have been established, primarily through the statute, but also through regulations in those occupations that have been defined as hazardous. And we make every effort to respond immediately to complaints and to, in addition, direct our enforcement in those areas.

Ms. Fisher. Thank you, Mr. Gross.

We'll hear now from Ms. Hazel Filoxsian, who is a seasonal farmworker herself and founder and Director of the Migrant and Immigrant Assistance Center in Fort Pierce, Florida.

A farmworker for 36 years, she is a member of the National Advisory Council on Migrant Health and serves on the Board of Directors of the East Coast Migrant Health Project. Ms. Filoxsian organized for the United Farmers Union for 2 years.

Ms. Filoxsian. Thank you.

As a current seasonal farmworker and a former migrant farmworker, I can tell you firsthand the reason Wage and Hour in the Department of Labor isn't receiving a lot of complaints of child labor violations, wage and hour violations, labor violations in general.

Last week I was in a grove supervised by a licensed contractor who had a small automatic belted to his hip. I would not file a complaint against him. The reason he could wear the gun on his hip as he supervised his crew of fruit pickers is because our compliance officer couldn't get into the grove. They have no access. We had to work all day under the threat of this guy losing his temper and somebody being seriously injured.

The reason there are not a lot of complaints filed with these departments, first of all, is the fear of repercussion. Regarding child labor in 1988, 15-year-old Antonio Sanchez was killed in a grove in Florida, in Fort Pierce, owned by Evans Property.

When it came to the attention of these agencies, OSHA fined Mr. Evans $1,000 for this violation. I feel like I must point out to you that that same year Forbes magazine listed Mr. Evans as one of the 10 richest men in the State of Florida.

It took am ambulance-chasing attorney to shake Mr. Evans where he would feel it most. Now when you pass his grove, you see a sign, "No One Under 18 Admitted." Now he complies because he was hit where it hurt the most, in his pockets. One thousand dollars was not even a stiff enough penalty.

In the State of Florida, we have 16 compliance officers to oversee the work of over 5,000 contractors. One among those 16 compliance officers knew that he was not hired to serve the people from his office. At 3 o'clock in the morning, he pulled surprise raids on vans taking people to and from the groves.

He cannot go into the groves. He catches them at the local loading zones. He fines them. He cites them. This is a deterrent to the contractors. But that's one among 16.

What I'm trying to point out to you is from my position, the reason for these problems is lack of enforcement. We have the laws, but they're not worth the paper they are written on if they're not properly enforced.

In 1991 Willie Simmons, a contractor in Putnam County, Florida, forced 11 men onto a van that had no brakes, no seats. They were forced to ride sitting on boards thrown across cement blocks.

A rock-hauling truck ran a stoplight in Lake County--they were en route to work--broadsided the van. Four of those men were killed. Seven were injured. And I'm sure you know once the van was hit, those blocks were like missiles.

The van had not been inspected. No one could come onto the labor camp because in the State of Florida, we don't have the access law.

Farmworker advocates can't get into camps or fields. Growers and contractors rely on the private property law. Even though these workers were paying rent, they cannot have anyone onto the grower's or the contractor's property.

So it's like everything there, the workers are there. They have the laws, but they are not protected by the laws because of the lack of enforcement.

And with the children and the education, I can also tell firsthand there's a reason for problems in these areas, especially with the migrant children. They get into the school system late.

I started school when I was 9 years old. I was 9 years old in the first grade. And that was only because officials forced my mother to enroll me. And then the children leave school early.

I have often thought to myself: What would happen if the home state for workers--for example, Florida, with the largest population of migrant workers and farmworkers--had a day camp-like atmosphere for migrant children. A system with camp activities, a school environment, staffed educators, and medical people, so when parents who had to go north for the harvest when school was in could leave their children, go to the harvest, and come back and their children's education would have continued?

The reason for the high rate of dropouts among migrants is: What 16-year-old wants to sit in a fifth grade class? Because that's the level they have to learn at when leaving early and starting late?

If the education of this 15-year-old could have continued while his parents were in the field, when he returned to public school, he would have been up with the rest of his classmates. That's the reason for the dropouts.

I wouldn't do it. I wouldn't want to do it. And it seems like such a simple solution, so we are pursuing it further. We are talking to private organizations that are willing to fund something like this.

We have beautiful natural surroundings in Florida, the perfect place for acreage to develop a camp like this. We have educators who would donate their time. Professors at some of the universities in Gainesville have already committed to coming out as have nurses and doctors.

And with this little girl--I started to read this paper, but it brought back so many painful memories, I couldn't get past her picture here.

About every two years in Fort Pierce, there is an auction. Old school buses are auctioned off, the little short mini vans and the larger buses.

For parents like the Santiagos, if they're isolated from day care, instead of auctioning off those school buses, what if one of those buses were donated to a day care center in Fort Pierce, for example, for the use of going to these areas where we know the migrants are living, picking up the children, bringing them to the day care, and returning them home, instead of just auctioning the buses off and most of the people who get them are farm labor contractors and they take the people to the northern harvest and bring them back? It would be a solution to the problem.

I mentioned to some of you before the meeting started that one of our representatives in the State of Florida was given a tour of one of our labor camps.

We went to a small RV like this, and there was a little boy--I think he was about four years old--left inside alone with a rope tied to his hand and the other end tied to the bed. There was enough room for him to get to the food that had been left for him and have access to the bathroom. That was the mother's only means of restraint. That was her day care.

I have about 17 senior citizens that have committed to going into these areas, volunteering their time 2 or 3 days for one person, offering day care, but they can't get into those labor camps because our legislature won't pass the access clause in the State of Florida.

It would seem to me that if more of our elected officials were sensitized to the issues concerning farmworkers, if we had more friends in the decision-making positions, if they would remember their campaign promises, that a lot of these problems that we have with education, with health care, with the availability or accessibility of health care to migrant farmworkers, would be solved. It just does not seem that hard to me.

In the states that we migrated to during the time that I was a migrant farmworker, my only problem with getting health care was that I was on a labor camp 20 or 30 miles from the world, and I was afraid to leave.

In 1984 in Wilson, North Carolina, I was literally held against my will on a labor camp. Pirate vans roamed the roads. And if you were caught walking, you were kidnapped and sold. In 1984 in the United States of America, you were sold to the contractor who could afford to pay for you. And your worth depended upon your physical ability. There was health care available to me. I just couldn't get to it.

Department of Labor officials, the Legal Services Corporation tried numerous times to come into the labor camp to tell us what our rights were, to tell us where we could go for help.

We lived on this camp two weeks. It rained, and we couldn't work. They weren't allowed to come in and give us food vouchers until well into the second week. We had to eat the slop prepared by the contractor and pay for it whether we ate it or not.

We're talking about a very special group of people here. Numbers and figures and statistics are good for those of you who can deal with it. I have to deal with the pain of being a forgotten member of this country's population. I have to deal with setting your tables every single day of my life and being underpaid and being exploited.

I guess the most painful thing about this story on little Ada is the date, 1992. And I'm thinking back to 1956 in Belle Glade, FL, when I was exactly 6 years old. It hasn't changed, hasn't changed. And that's the saddest part about it.

But there are solutions to these problems. And they're not going to be solved until we can get people, as the Senator mentioned, advocates higher up, people who are sensitive to these issues. And until then we're going to remain the forgotten portion of the population.

The monies are there. The services are there. But what good are they if farmworkers have no access to them? What good are they if we don't have a friend at the top to see that these funds are properly allocated?

And that's the reason I try and take advantage of every opportunity to come before you to remind you and those in the decision-making positions that we are not going to go away.

Our problems are not going to go away until someone at the very top or someone from this position has access to the top and can make our needs known.

Ms. **Fisher.** Thank you very much for that very compelling testimony.

We will hear next from Mr. Wendell Rollason, who is Executive Vice President of the Redlands Christian Migrant Association, Immokalee, Florida. He has worked with migrant and seasonal farmworkers for 43 years.

He chaired the Governor's Advisory Council on Farmworker Affairs for 13 years and is a member of the National Commission on Migrant Education. Mr. Rollason is also Vice Chair of the Florida Interagency Coordinating Council for Infants and Toddlers.

Mr. Rollason?

Mr. **Rollason.** Thank you, Madam Chairman.

You will see an interesting contrast from the two members of this panel who are from Florida. Be mindful of the fact that from the position of Ms. Filoxsian as a farmworker herself, you cannot possibly from the outside--and I'm speaking of myself. Although I have been in this work for 43 years, nobody from my side of society could possibly understand what the migrant farmworkers over the years have had to endure all across the country.

From my point of view, there have been some remarkable changes for the better in Florida in the lives of migrant farmworker families who have access to facilities that are wholly inadequate for the entire population. But you make your progress the best you can.

Education of the migrant child--and I will deal with Florida, even though there are occasional references elsewhere, because I am closely associated with the schools, in combat with the schools and the health clinics, the health facilities.

Our migrant child anywhere is associated with the reality that our schools are designed for the middle class family. They get 80 percent of the attention.

It's no wonder that in society, 20 percent from the poor cause 75 percent of the problems of education today because the schools do not address the problems of poor kids.

In this, I am speaking of the working poor. In the rural working poor in Florida, 85 percent of those folks earn their living in agriculture. My definition of the working poor is the man or woman who works at least 40 hours a week and does not earn enough money for him and his family to live decently.

I want to comment on the Migrant Education Program and not to be repetitious of Dr. Corrigan or Senator Perry. They have both given you a good picture. I think, particularly, the problems that are emphasized by Jack Perry are things for those of you who are interested in these matters to pay attention to.

It is, as indicated, woefully under-funded. Amongst the migrant families, as with the urban poor family--working poor I'm speaking of solely--the schools resist involving the parents in the education process.

The Committee on Economic Development in New York, which is a mirror reflection from Fortune 500 folks, states in their report "Children In Need" that came out, I think, in 1988 that the key--and I am saying the key, not a key, but the key--to children from poverty families obtaining a good education is the degree to which their parents have been involved.

Obviously, the working poor cannot have access to the schools on a 7:30 to 3:30 basis. Our society has got to address that fact and to know that they have got to involve their parents, convince their parents that they are interested in their kids.

Our view in Florida is that 85 percent of the migrant parents feel that the schools don't want their children. And they're about 50 percent correct. That is certainly a major factor. And I will add to Ms. Filoxsian's view as to the dropout problems that we have.

Migrant Head Start is a division of the regular Head Start, but the legislation is a component of that act. And it again is a case of being under-funded.

This morning Washington Post contains some criticism of Head Start. I suppose that that report is factual as far as it went. But everybody in those positions making those statements and in the schools themselves do not comprehend the Head Start beauty and its worth and its achievements, despite those criticisms, because it involves the parents.

The parents in Head Start programs know that they have a piece of the action. Hopefully, this awareness turns over into the schools, and the parents will become there the advocate of their child.

The criticism that the benefits of Head Start do not last is ludicrous. Are you going to expect a program like this to prepare kids for college? Public schools do not pick up where these very impressive programs leave off.

Migrant Head Start is an infant through age 4 or the 5-year-olds that by age have missed first grade. It is a more tightly controlled from Washington, which is supposedly a no-no. But let me tell you that the only support, meaningful support, within the educational process that poor kids get is the federal strings to the appropriation.

If, as seems indicated, the present administration is talking about just channeling to the states these funds, it will be a sad day for poor kids in our public school system when there are no federal inspections and monitorings.

My copy of this announcement of this hearing mentioned child labor. Let me, therefore, say a few things about that as I see it in Florida. Over 43 years there has been a magnificent lessening of child labor.

In my organization we have taken the position long ago that these kids need the help of the power structure. You can trod the path of advocacy and making agriculture the bad guys from here to eternity, and agriculture is going to circle their wagons.

We set about to involve agriculture in our child development programs. As a consequence, the State of Florida--and I'm not counting. Our legislature is in session, and it may all go down the tubes.

But as of this minute, for example, we get the schools with the migrant education preschool program gets an additional solid shot in the arm for $3.5 million annually so that hundreds of more migrant preschoolers are in safe and good child development. And that is solely due to the power of agriculture.

We took the position within our own organization circle that the only one of the multiple power structures that exist anywhere in any state or the country that has a vested interest in these kids is agriculture.

So we have been able, if I can put it this way, to separate the good guys from the bad guys. And whether they're doctors or presidents of savings and loans or plumbers or whatever, there are good guys and bad guys everywhere in every profession.

In Florida as far as child health, child education, when I need help, I go to agriculture. We had the fight last session of the 3.5 million being dropped, and agriculture put it back in the state budget.

So I mention this because I feel that in agriculture, if we can recognize, as we do in every profession else, that there are good guys and we cultivate them, give them a place to stand, that insofar as the children are concerned, they are going to become, can become nationwide, the same strong allies that they are for kids in Florida.

Now, we have been seeing in the last three years particularly a new phenomenon that has me tremendously worried about young people. We are getting 13, 14, 15, 16-year-old boys coming in from Mexico unaccompanied by families. The disastrous deterioration of rural Mexican economy is turning these kids northward for survival.

Now, the culture is different. The rural culture of these boys, as I refer to them deliberately, are young men. They come here with a commitment to work. So they get, as our commission found, all over agriculture in the United States. But let me talk from Florida.

The death of this youngster that Ms. Filoxsian mentioned was one of these boys who had come in, signed up with the crew chief. Not alibiing, but stating realistically, the citrus growers of Florida or anywhere are quite different in the way of policing than the tomato fields, where you can stand at the edge of the field and see everybody. You stand at the edge of a grove, and you don't see anybody. It is very difficult for the efforts made by agriculture when it comes to the grove to keep these young teenagers out.

They are reviewed only in cases of accidents, fatal or serious enough to require immediate medical attention. And this is increasing. If you would pick up these kids and plunk them in school, the next morning they are going to be gone.

That crew chief is not going to take them back on. That grower by then is going to have laced out all of his crew chiefs because, as Ms. Filoxsian pointed out, the problems of suits today are very serious.

But, moreover, the majority of the time, people in agriculture are human beings that have a concern for the kids. And they are not recruiting these kids. They are flowing into the country.

I don't know what the solution is. But say you put one of these kids in school today, and they're going to be gone tomorrow. And you have nobody that you can hold responsible. I don't know the solution, but it's certainly one of increasing concern.

I believe, Madam Chairman, that you have a tighter schedule made by those who can't watch their clock. So I'm watching my clock, and I'll stop here. I could talk for another two hours, I guess, like any of the rest of us here. But that's my input at this moment.

Ms. **Fisher.** Thank you, Mr. Rollason. Hopefully, we can explore through questions more of what you have been saying.

We would like to hear now from Ms. Diane Mull, who is Executive Director of the Association of Farmworker Opportunity Programs, a national federation of organizations that provides farmworkers with employment, training, and other services through 450 field offices. She has worked on farmworker issues for more than 17 years and is a recognized expert on child labor issues.

Ms. Mull?

Ms. **Mull.** Thank you. I want to thank you for the opportunity to be able to come and talk about migrant and seasonal farmworkers here in the United States. I would also like to applaud the commission for its effort in examining the needs and the issues and concerns that affect migrant and seasonal farmworkers here.

Our association is made up of employment and training agencies or organizations who operate employment and training programs for migrant and seasonal farmworkers. They operate in 49 states and Puerto Rico.

Our population includes both migrants as well as seasonals. We also serve the total family, from the child through the adult; we focus the majority of our services on employment and training for those who have dropped out of school, for those who are seeking alternative skills or want to improve their skills within agriculture or who are seeking alternative employment outside of agriculture. That gives you a little bit of background about the association.

I have been asked to talk about labor standard issues as they relate to migrant farmworker families and especially migrant farmworker children. So the majority of my comments today are going to focus on child labor and those children who are working in agriculture.

I am here to tell you today, as countless other people have before me and as the distinguished members of the panel have said, that the farmworkers', especially migrant farmworkers', health and well-being are at risk and that they are more vulnerable than any other occupational group in this country to exploitation, abuse, and discrimination. There are few labor standard protections for workers in agriculture and even less protection for the children who work in agriculture.

Children are a significant part of the agricultural workforce in the United States. As the United Farm Workers Union has estimated, as many as 800,000 children work in agriculture. Other estimates have indicated that 38 percent of farmworkers consist of women and children under the age of 14.

But whether a farmworker is an adult or a child, a migrant or a seasonal worker, I know of no other people in our society who work harder with as little protection from exploitation in return for so few opportunities and benefits.

Tremendous sacrifices are made in health, education, housing, and financial security by this population to provide an abundant supply of low-cost food, which we as a nation take for granted.

Beginning earlier in this century, there was a shift in our societal views in this country. As a result, we passed child labor laws to increase protections for children.

Society decided that it was no longer acceptable to us that the need for cheap labor by business warranted subjecting workers to hazardous and exploitative working or economic conditions.

Although children have been a good source of cheap labor, over time our society has committed itself to protecting children from neglect, abuse, and exploitation.

Our society has gone a step further and committed its resources to assuring that children are offered a fair deal, the opportunity for a brighter future, the right to a decent education, housing, safe housing, health care, and economic security.

We view our children in this nation as our future, not as a cheap, easily exploited source of labor; that is, unless you are a child born into a migrant or seasonal farmworker family.

And just how is it different for the migrant farmworker child than for other children? I heard Mr. Gross talk about what the laws are. One of the most confusing things about farmworker laws is that every time you take a look at the labor standards, you take a look at the law, and it seems fairly simple for everybody. And then there's this big, huge "but," no pun intended.

This exception ends up being so convoluted and confusing that it's no wonder agricultural employers themselves can't figure it out. I appreciate your, Mr. Gross, attempt at this.

I'll give you from our perspective in a simple way what we believe the impact of these exemptions with respect to child labor law has had on farmworkers. A migrant farmworker child can be employed in agriculture even if they're younger than the age of 10. OK? A "fluke" in the law allows for a child younger than 10 to work in agriculture. No other child can do that.

Even without parental consent, 10 and 11-year-old migrant farmworker children can be used as hand harvesters if the employer gets a waiver from the Department of Labor. No other child can do that.

A migrant farmworker child under the age of 12 can be employed on a farm that does not pay minimum wage if the child has a written consent from his parent or person standing in place of the parent. No other child can.

A migrant farmworker child can work in agriculture more than 40 hours of week, even during the school term. No other child can.

A migrant farmworker child can work more than a 40-hour week, but is not eligible for overtime pay. No other child can.

A migrant farmworker child can work an unlimited number of hours performing agricultural services before school. No other child can.

And a migrant farmworker child 14 or younger can use knives, machetes, operate some machinery, and be exposed to dangerous pesticides, but no other child can.

Children who work in agriculture work long hours before, during, and after school. They're exposed to pesticides because they harvest the commodity. They may not be handling pesticides. Handling is classified as a separate activity from harvesting. If you're harvesting an agricultural commodity, you are exposed to pesticides, and these children are.

Do you know that there has been no research to determine what neurologic impacts these pesticides have on children? There has been none. Pesticides and the safety of those pesticides are determined based on the weight of what is safe for an average adult male 150 pounds or what is 10 times safe for an average adult male.

If you take a small child weighing about 50 pounds and they're exposed to pesticides at the same rate, that level of safety diminishes to where it is minimally safe for that child in that field.

The earnings that this farmworker child makes while they're working may never get credited to that child and may never show up at the point they go to hopefully seek retirement one day or collect their Social Security. It may not be there because in a number of circumstances these children work under their parents' Social Security numbers.

It shows up as fewer workers on the payroll. Therefore, the employers are able to be exempt from labor standard protections because they don't meet the minimum number of 500 "man days" per calendar quarter. There are a lot of problems with this antiquated system.

Farmworkers are also generally exempt under the law from unemployment compensation, workers' compensation, overtime, federal minimum wage, benefits that most Americans take for granted.

Now, what impact have all of these years of exemptions under the law had on farmworkers? Well, we have already heard a few circumstances from people who have talked before me about what impact it's had, but I'm going to give you a few statistics, hopefully not to bore you to death with them.

School enrollments for migrant farmworker children is lower than for any other group in this country. The dropout rate for migrants is 45 percent. That's compared to 25 percent for the rest of the nation. Only one in 10 complete the 12th grade.

Eighty percent of adult migrant farmworkers are functioning at a fifth grade literacy level. Those adults are the people served by the Job Training Partnership Act, title IV, section 402 program, of which our members provide training services--that's the people that we deal with on a day-to-day basis.

That means we start with English as a Second Language. From there we go to literacy education. From there we can then start thinking about training, job training, skills training, then job placement. It's a very long and difficult process and it's a very expensive process.

Our organizations receive funds to serve approximately two percent of the eligible population, even though we have the largest and broadest definition of an eligible farmworker population of any of the 10 programs that were previously referenced.

What impact has all of these exemptions under the law had on health? Three hundred children die every year in agricultural-related accidents. Twenty-three thousand, five hundred are injured every year.

There are some other tragic statistics. Infant mortality is 25 percent higher for farmworkers. Parasitic infection, 11 to 59 times higher than for other U.S. workers.

Forty-eight percent of children working in the fields have been sprayed with pesticides while working. Childhood brain tumors and leukemia have been linked in two studies that have been done to pesticide exposure.

In a California study between the years of 1980 and 1989, 42 children under 15 died in farm-related accidents. According to the research, when they looked at this, they said that, actually, it was probably 25 percent higher than that because of the way the information was reported.

The life expectancy for a farmworker according to the Center for Disease Control is 49 years. That's compared to 73 years for the rest of the U.S. population.

So what are some of the economic impacts that these exemptions have had? The average income for a farmworker family is less than $6,000, $6,000. That's compared to $28,000 for the average U.S. worker.

Agriculture has been defined as the most dangerous occupation. Yet, we continue to say that it's OK that children continue to work there and that it's acceptable under our laws to allow that.

Thirty-six percent, or, if we reverse that, 64 percent of workers are not allowed, are not guaranteed the right to have fresh drinking water, hand-washing, or toilet facilities under the current law.

Fifty percent, only 50 percent, are entitled to minimum wage. Only 14 states offer full workers' compensation coverage. And in 19 states workers' compensation coverage does not apply to agricultural workers at all.

In 15 states there are no job safety standards at all that are applicable to farmworkers. And only four states offer full unemployment compensation for farmworkers.

So you ask yourself, "OK. With all of these statistics, why do children work on farms? Why do the parents allow the children to work?"

Well, the answer is very simple. It's a basic necessity of survival. If you can't make a decent wage and you want to provide for your children and have food on the table, they need a place to live, everybody in the family has got to work to contribute so that the family can survive.

We in America have to allow a situation where farmworkers are forced to bring their kids to the fields so that the basic family can survive?

Why is that? Basically it is because the adults are not adequately compensated in their wages for the work that they do, and they do not have access to the same labor standard protections that other workers have that will help them maintain themselves above poverty. Even though they are working in difficult, hard work exposed to the hazardous conditions that they are exposed to, they have none of the benefits to fall back on that other workers in our American society have.

Farmworkers are the lowest paid occupational group. Their annual incomes maintains them in a forced poverty situation. The laws that we pass and the laws that we allow to continue to stay on the books, relegate this population to a continual cycle of poverty from generation to generation.

There's a common practice in agriculture, and that's piece rate payments. That means for every bit of work you do, you're going to be paid a certain token for a bushel or a basket.

Well, that piece rate system means that the more productive you are, the more you're going to make, so as a result, having your children there running, carrying the heavy bushel baskets helps, as you see in this picture, or having them go down and help harvest, as seen in the other photo or as described in the Fresno Bee article or in the five-part series on child labor in agriculture that was done by the Boston Globe.

There was a child 5 years old. The parents were working in the field, and the child was helping out--children learn behavior early--trying to help out the family, the child ran across the road to pick up some bags and was hit by a car and killed.

That was not qualified as a child farm-related accident. That was a motorized vehicle accident. That child was helping that family try to earn a living wage, even at the age of 5.

So where do the children play? They play in the fields. What's in the fields? Pesticide-related commodities. What's in the fields? Major combines, tractors, equipment of which they could be run over. What's at risk? Their lives.

What are we doing about it? Why do we allow this to continue? Well, I had said in the beginning of my comments that this was probably going to make a few people uncomfortable. Unfortunately, those congressional members are not here.

But I think a large part of the responsibility of all of this lies at the feet of Congress because what has happened is they have bought into the argument that we need to continue to have a cheap source of labor here in order to keep food costs down.

But there have been economists who have done research that has indicated that they estimate that farm wages account for less than 10 percent of the retail price of a head of lettuce or a pound of apples. Farmworker wages only account for a very small portion of the consumers' price for food.

So if we pay workers a decent wage, if we stop child labor--I mean, we have an adequate supply of laborers here. The U.S. Department of Agriculture and the Department of Labor have both issued publications in the near past, within the last year, that have indicated that we have a surplus of adult workers.

So if we have a surplus of adult workers, then why are we continuing to allow on the books laws and business practices that allow children or encourage children to work in the fields?

You know, I understand how this process works. I mean, I've been in Washington since 1981, which in terms of a lot of folks is not a long period of time. But I realize that whenever you come into legislation, compromises are made. And we all know what the true test of a compromise is: Everybody is unhappy.

But what has happened since I have been here, when minimum wage came up and there was a huge debate on minimum wage, farmworkers were not going to be discussed in that debate because of the fear that the whole bill would not be passed if farmworkers were brought in to receive minimum wage. So compromise was made.

Consistently down the line there have been laws which have come forward and because of the issue of agriculture and facing the powerful industry's lobby, farmworkers are consistently discriminated against under the law. And I'm not sure that you could really come up with another term for it other than "discrimination." They're discriminated against consistently under the law.

We have a whole laundry list of recommendations that we have made, those recommendations are provided within the text of my testimony. And I do encourage each of you to look at those. I think that, in general, we must have education for the general U.S. population.

There have to be equal labor standard protections for these workers. And have them treated as every other worker. Force the agricultural industry to come into modern day. It's no longer the "Mom and Pop" operations the way it used to be.

There's this concept that agriculture is small business. Agriculture contributed over $28 billion in 1991 to this economy. That's big business. That's not small "Mom and Pop" operations.

These are companies. These businesses have formed corporations, which protects the assets of the owners. So if the business goes down, the assets of the owner are not affected. These business people are also employees of their own corporations. So they're taken care of. But their workers are not!

As far as pesticide education, it is essential that the workers receive education about the pesticides that they are exposed to, about work safety and that it is communicated to them in a way in which they understand and that it is communicated in their language and that we fully fund all of the programs that are out there offering services to farmworkers, including job education, Migrant Education, Migrant Head Start, Migrant Health, the employment and training programs, and housing. These need to be funded at a level at which they can make an impact on the population.

And we need to change the laws so that we can break the cycle of poverty because eventually society is going to pay for it. We can pay for it now by changing the laws and treating this group of people like everybody else and stop the discrimination, the exploitation, and abuse, and then our society will benefit in the long run.

It's difficult for a nation to criticize itself when in full view of other nations and when so often we as a nation are seen as the champions for human rights, but I think this is, however, clearly a case where the United States needs to sweep on its own doorstep before helping another nation sweep on their doorstep to resolve the migrant farmworker problem.

Thank you.

Ms. **Fisher.** Thank you, Ms. Mull. You're exactly right. We need to look at our own house in the United States, which is why the commission has selected migrant worker issues as one of the key domestic issues that we need to address.

Before I open this up to questions from the floor, Ms. Filoxsian will just make one brief comment.

Ms. **Filoxsian.** Thank you.

I wanted to add to Ms. Mull's comments or her list there. There is a group of people that we should also consider when thinking about those who are exposed to pesticides in the farmworker community. That group is the unborn.

Women in the farmworker community work from their first trimester until giving labor. We have to consider the effects that pesticides have on those unborn children. We also have to consider the birth defects among farmworker children.

And, Ms. Mull, I applaud you. Never have I felt so supported as a member of the farmworker community as I have hearing the extensive work that you have done to bring this to the attention of our government.

Thank you.

Ms. **Fisher.** OK. Let's hear from all of you now. If you have any questions, please step up to the one of the mikes and identify yourself, please.

Ms. **Huerta.** Hello. My name is Delores Huerta. I represent the United Farm Workers Union. And I just wanted to make some additional comments in terms of some of Mrs. Mull's statements.

Regarding laws that don't exist for farmworkers, one of these is the law allowing collective bargaining so that farmworkers can bargain collectively and form effective unions.

We do have that right in a couple of States, the State of California for one. And there is, of course, an organization in Hawaii. However, our laws in California have not been good because, unfortunately, there the political winds have blown.

The last two administrations, Republican administrations, have placed people in the enforcement of the act. And that has really gone more towards the employers, rather than the workers. So for the last eight years, we haven't really had enforcement.

A lot of these courses direct the way that the farmworker children live because when the farmworkers have a union contract, they have job security. They can't get fired. They will stay employed until they retire. They have time with the family. They have a decent wage.

And we have seen an immediate impact on the education of our farmworker children with the loss of union contracts because, again, lack of enforcement of the law.

Another point I wanted to make is that with pesticides, the children that are being poisoned by pesticides, it's not only in the field that the children are being poisoned, but also in the communities where they live because so many of these farmworker towns are located right near the fields.

They come home. They have been in pesticides out in the field. There are actually several consequences in California, one of them in Omar, California, where the cancer rate is 1,200 times the norm and one in McFarland, CA, where the cancer rate is 400 times the norm. When I think about this problem, I think about 12 children who have already died there of cancer.

Unfortunately, there has been a tremendous whitewash by our state administrations, where they have said that none of this is being caused by pesticides, but there is nothing else out there but agriculture that can affect all of these children.

In terms of educating farmworkers how to protect themselves from pesticides, you can't do it. There is no way that anyone can become educated to withstand the harmful pesticides that are being poured on the fields right now just simply because the dosage is too high.

Not enough research has even been done to say whether it's safe for the adults or the children. There's no protection from the pesticide, which has got to be stopped totally.

By the way, there is an ongoing research project by Dr. Marion Moses called, I think it is, Pesticide Education Project that is ongoing.

The other thing I wanted to say that is very detrimental to children is racism, racism in the fields, because, basically, what you have out there is slavery in our fields right now. We have people living in conditions that are akin to slavery.

This racism exists not only in our poor communities, where they do not look at the workers as human, but as some kind of a tool, an implement. They don't see them as people.

Some work has been done in this area in the last 35 years or so. It makes me proud to say that things aren't all the same. The only place that we have any difference at all is in the areas where we have collective bargaining agreements. I would rather not say it, but this is as it has been for the last--how many?--50 years, 100 years in this country.

Racism is also extended to the schools. In most of our areas, we have very large minority populations, people of color. I won't say these are people of the minority because we are a majority in the work. But we do have the children of people of color.

The administration of the schools is still very much white. And there's very little sympathy for the problems that the children have, whether they be handicapped by language or other economic circumstances, the extreme poverty, the lack of adequate clothing, the lack of adequate nutrition. That simply does not exist there in the school administration.

A lot of the dropout rate that we have among migrant children and Latinos in general, about 60 percent, is due to racism and lack of attention from our schools.

I will make just one final comment. I'm also a member of the Commission of Agricultural Workers. We just issued our report the day before yesterday, and I would advise that everyone get a copy of that report, not just the executive summary, but the full report.

And please pay attention to the minority reports because our committee was pretty much slanted towards agricultural employers, although I must say that even the members of the commission recognized the situation that the farmworkers are in. But I would ask you to please also read the minority reports when you get the report prepared by all of the members of the commission.

Thank you.

Ms. **Fisher.** Thank you, Ms. Huerta.

Anybody else?

Mr. Goldstein. I'm Bruce Goldstein. I'm with the Farmworker Justice Fund. I have a comment for Mr. Gross, Department of Labor, and a question.

One of the reasons why child labor violations are not reduced more than they have been or reduced at all is that growers have increasingly in the last few years relied on farm labor contractors or crew leaders to recruit higher and pay farmworkers. One of the reasons they have done this is because the growers think they can insulate themselves from liability for the child labor violation.

The Department of Labor has taken a very weak stand under the law. The Migrant and Seasonal Worker Protection Act actually makes most employers liable for the violations of their crew leaders because they should be deemed to be joint employers under the law, but the Department of Labor has been reluctant to find that these employers are joint employers with the crew leader and have used its limited resources to go after crew leaders, rather than after the employers as well. Ordinarily it's the employers who have the resources.

If the employers were aware that they were likely to be held liable for these violations, they would probably stop using crew leaders. And they would probably make sure that any crew leaders that they did use would not be committing these violations. There are some simple ways for the Department of Labor to discourage these kinds of violations.

The question I have is about the resources that the Department of Labor has put to bear in child labor and in agriculture generally. Mr. Gross indicated that there are about 800 wage and hour investigators nationwide, including both agriculture and nonagriculture.

My understanding is--and I would like to be corrected if this is not accurate--that there are about 26 farm labor specialists across the country.

Many of the wage and hour investigators are just not familiar with the special situation in agriculture, while 26 farm labor specialists across the entire country to investigate and prosecute wage and hour violations just is totally inadequate.

In fact, our reports from around the country are that some of the farm labor specialists are not even spending full time on agriculture. So there has got to be a redirection of resources within the Department of Labor.

My understanding also is that in the last four years, the number of investigations and the amount of time spent by investigators in agriculture on the Agricultural Worker Protection Act have decreased by about 35 percent.

So at a time when problems seem to be getting worse, the Department of Labor has spent even less time and fewer resource on this problem. So I hope that this commission will be able as part of the solutions it advises to look at the resources that have been brought to bear and the policies that have been followed by the United States Department of Labor.

Thank you.

Mr. Gross. I want to just comment on your question. I don't have the statistics with me. And I'm sure that the hours spent in agricultural enforcement have declined over the last three years and that our numbers of investigators have declined substantially in the last couple of years as well. So throughout all of the programs that we enforce, there is probably a decline in the number of hours just simply because we have fewer people to enforce.

Relative to the question on joint employment, I think that that is an area that we look to in all of our investigations to try and establish a joint employment relationship.

Our primary enforcement is against the immediate employer or the farm labor contractor, but where we can establish a joint employment relationship, we will go after the grower if we can establish that joint employment relationship.

Relative to child labor, I think one of the areas that we are looking at right now and better targeting perhaps in enforcement of child labor in agriculture is the question--and we don't simply know this right now--of whether it might be better not to focus our enforcement efforts on farm labor contractors, although we know that there is substantial abuse of the Migrant and Seasonal Agricultural Worker Protection Act relative to certain farm labor contractors. And we have focused our agricultural enforcement effort in recent years on those worst violators.

It may be that by focusing on those worst violators, we may not be focusing really on the employment of minors in agriculture. It may be that those worst violators for other purposes may not be the primary employers with minors. And so we are looking at whether we ought to redirect our focus when we are looking at child labor in agriculture.

We have talked to various outside groups. I think we have talked with Ms. Mull and with the Department of Education to try and build a better mechanism for deciding where we look to enforce child labor in agriculture.

Ms. **Fisher.** Thank you, Mr. Gross.

Yes, ma'am?

Ms. **Bobatec.** I am Bea Bobatec, the Migrant Legal Action Program. And my question also involves enforcement.

I have seen statistics over the years of all sorts of housing inspections, grower inspections, farm labor contractor inspections, OSHA inspections. I wondered if you could detail exactly what the Wage and Hour inspection does include because you've mentioned it does include child labor violations.

Could you sort of run down a list of what one of these inspectors actually does when he gets to his place of inspection or whether, in fact, he does it on site or whatever?

Mr. **Gross.** The two basic laws that we enforce relative to agriculture are the Migrant and Seasonal Agricultural Worker Protection Act and the Fair Labor Standards Act.

Under the Migrant and Seasonal Agricultural Worker Protection Act, there are provisions where housing is provided, that it must meet the standards that are established.

And we do pre-occupancy housing inspections. There are other agencies also that do pre-occupancy housing inspections. When we go on to do an investigation of a farm labor contractor or an agricultural employer, if housing is being provided, we will also look at the housing at that time to make sure that it meets the minimum standards required by the regulations.

We will also look to see that the employees have been properly notified of their wages that they are to get that is required by the MSPA. We will look to see that they are paid the minimum wage. And we will look to see whether there is any illegal employment of minors.

We do that in various ways. We inspect the records. We talk to the employees. And we interview the employees not only with respect to their own employment, but also with respect to their coworkers. It's primarily through interviews with the employees and the workers in the fields that we identify and establish those violations.

Once violations are found, there are provisions for civil money penalties, not only for violations of MSPA, but also for violations of the child labor requirements.

And those civil money penalties will be assessed if there's a farm labor contractor, against the farm labor contractor or the agricultural employer if we can establish that there is a joint employment relationship between the grower and the farm labor contractor.

In addition, if there are minimum wage violations, we will seek recovery of the minimum wage violations.

Ms. **Fisher.** Would anybody else care to comment?

Ms. **Filoxsian.** Yes. I would like to comment on what the attorney from the Farmworker Justice Fund said about the crew leader system. That is basically the reason for a lot of the problems that farmworkers have.

The solution to that is to eradicate the crew leader system. Make the grower directly responsible for the workers. Make the grower responsible for the hiring and for the paying of the worker.

Tropicana does not hire any workers. Tropicana simply purchases the fruit from a grower. The grower is responsible for hiring a contractor, who is responsible for recruiting labor and paying the labor. When there is a violation against the rights of these workers, there is the biggest case of passing the buck you have ever seen.

In 1972 Coca-Cola signed a contract with the United Farm Workers Union. Those workers enjoy nine paid holidays a year. They have emergency sick leave. There are no crew leaders. They have a hiring home.

Coca-Cola is directly responsible for the conditions of these workers, for the working conditions. These workers are guaranteed a flat minimum rate for picking, and these rules are enforced.

Now, obviously, all of the farmworkers in this country are not going to be organized or can't be organized and can't work for Coca-Cola, but we can make the growers responsible. That is where the responsibility should fall, on the grower.

Obviously, they have a personnel department because they have other people, other than the workers working for them. You hire them. You pay them. You are responsible for paying into workmen's compensation. You are responsible for the wages.

Illegal deductions, anything that goes wrong, any labor violation is the growers responsibility. You will not pass it on to Joe Blow, who recruited this labor or who is working these people under horrendous conditions.

Make the grower responsible is a solution to some of the problems that the workers are having in the fields.

Ms. Fisher. Thank you.

I also have a question for Mr. Gross, but I want to give you a little bit of a rest. I would just say that while the Department of Labor may be under criticism here, it is not directed at you.

I have met many dedicated people, your colleagues at the Department of Labor, who are committed to trying to get some of these laws changed and to try and get more funding and to try and get more enforcement officers out in the field.

The Department of Labor officers that I have met out in the field seem whipped because until the administration directs, as national policy, that these abuses be corrected, Mr. Gross and his colleagues are fighting a hell of an uphill battle.

Now I want to, if I may, take the chairwoman's prerogative and move a little bit here to education. I was interested, Senator Perry, in what you said about the under-identification of children.

It's clear that we've got a number of programs that seem to be very worthwhile and aimed at correcting problems. There appears to be a lot of money spent here.

I'm wondering if any of these programs are specifically aimed at identifying the children and getting them into the schools. Is it as simple as just going to the parents at night and finding out how many children are in those camps and getting a bus to get those kids to the school?

Senator Perry. I think I would refer to Frank to sort of describe, if you could, what goes on. I don't know all of the details, but that's part of it. You do go to labor camps. But it's a matter of it's probably a little bit different in Texas than it is in New York. I'll put it that way. Maybe Frank could give a better--

Dr. Corrigan. Well, there are a variety of ways in the states. And, as Jack's comments referred to, the efforts that they put out vary because of some of the formula considerations that direct their attention, both to formerly migratory as well as currently migratory children.

But it runs the gamut. The kinds of identification and recruitment activities that go on include individuals who see themselves not only as individuals working for those local programs or the state, but also as advocates for the families. They will try to connect them with other services in other programs, Migrant Health and Migrant Head Start and a variety of others.

So they are out among the workers. Many times they are individuals from the migrant camps themselves. Other times they are people who are working for the local school system or for the state education agency. And this again is a case where funding has some implications for them.

Some of the small states in the reference that Senator Perry made before to the funding question is the states with small programs find themselves in the difficult position sometimes of having identified youngsters and families that are in need of services.

And, yet, the amount of funds that is generated for those families is so small because of the numbers in the state overall that they may find themselves with just enough money for identification and recruitment and not enough for some of the services.

But the bottom line is that they have--I don't know--an array of approaches that the states use for identification and recruitment that include working right out among the families and with the children and, as I mentioned, the Stopover Site.

Hope, Arkansas is an example. They try to identify families as they're moving through the state that will be going to other states. Where are they going? Many of the families go to the same areas in the country from year to year.

And, as was mentioned before, the home-based states try to do a good deal of work in some cases now of actually having teachers, counselors, and others work with the school systems in the receiving states to try to address some of those needs along the way with summer programs.

Another example, too, they're using technology, like distance learning, to have teachers in Texas teach the students during the summer month in the states like Wyoming, Montana, things like that as a part of the process.

So identification and recruitment do include an array of activities and services that begins with just finding the families and then, secondly, trying to hook them up with other services beyond migrant education.

I don't know whether that answers your question.

Senator **Perry.** I might just comment that I think, Frank, you should comment on industrial surveys in the briefest way possible.

Dr. **Corrigan.** All right. Very quickly, industrial surveys are another way in which because of the definition in the statute if the work is temporary and is defined as such, one way that it can be done is through a survey of industries and like jobs in an industry so that even though a person might suggest initially that they're coming to a job and plan to stay there for a long time, if a pattern as established by industrial surveys develops where many of the jobs are, indeed, temporary, then, in fact, that state through their employment statistics or through an industrial survey specifically aimed at certain deals, like meat-packing plants and others, may prove to be temporary in nature. And then the children would be eligible. Their families would be eligible for migrant education programs.

Senator **Perry.** The reason I wanted Frank to do that was that, as Wendell points out, there is a means of cooperation with the agriculture interests or early childhood services. At least he has been able to accomplish that in Florida.

This is another area where there could be a cooperative venture with the meat-packing industry, with growers in various parts of the nation to have them help identify or work with the migrant education programs to help identify people.

It doesn't do the growers or the meat packers any harm. It would enhance the Federal funds available to educate the children of their workers.

And it seems to me it's a nice combination that goes on in some areas. But, once again, it's one of those things that needs a higher visibility to bring together the community of farm labor and migrant labor.

Dr. **Corrigan.** Just an added comment, too, about the recruitment. Florida is an example, but a number of other states do conduct joint identification and recruitment.

They use a form where each agency, labor, health, and education, can, in essence, share information with attention to privacy considerations, of course, so that individuals can be referred to the several programs.

So joint identification and recruitment does go on in a number of the programs around the country, too.

Senator **Perry.** It's a big problem.

Dr. **Corrigan.** Yes.

Senator **Perry.** A lot of funds are expended on it, which is another question for the Migrant Program, whether or not they should be identified every single year.

Some states estimate they may spend 10-15 percent of their grant on recruitment. Then they have to go out and do the same thing again next year and maybe sign up many of the same children.

This is a reauthorization issue possibly, but maybe it should be conceived that once identified, they should be eligible for two or three years or something. So that then recruiters could concentrate on the currently migrant.

Ms. **Fisher.** Yes, ma'am?

Sister **Gross.** I would like to say amen to that, Senator Perry. My name is Sister Adela Gross. I work with the United States Catholic Conference. I have worked with migrants, and I have been involved with migrant education for about 17 years on some level or other. I worked as a recruiter. I've worked as a teacher.

Having been involved in work at the church level, where you are a bridge for all of the agencies involved with migrants because you're the one person with whom everyone has contact and probably they have confidence, I would like to say that they are the most over-surveyed and the number of forms that--each year when migrant people arrive, every agency has to come out and do surveys and so on.

And I want to say a word for the small states because that's where I have been involved. We don't have labor camps in the Midwest to a great extent.

Migrant people are scattered over very, very large areas. Tremendous amounts of distance are involved in finding children, in bringing children to the migrant school programs.

I had the occasion to find children in families that are very, very far from the school site and then having found that the school was unable to send a bus to pick up those children because the funds aren't available for that.

So I know what you are talking about when you are talking about the need for less monies to be spent in the recruitment and more monies to be spent in the area of education itself.

I think anything that we can do to coordinate the efforts of all of the agencies, to reduce the amount of paperwork and questionnaires and all of the rest of that would be well worth our efforts.

Thank you.

Ms. **Fisher.** Thank you, Sister.

Yes, sir?

Mr. **Johnson.** I am Leon Johnson, Chairman of the Governor's Commission on Migratory and Seasonal Farm Labor in Maryland.

I grew up on a farm. I've been a county extension agent for the last 37 years. And I'm familiar with farming and all of the problem associated with farming. There may be a few that I'm not familiar with, but it's not many.

When we're talking about farm labor, especially migrants, I think we really have to look at the power of a migrant laborer. Migrant laborers are basically politically powerless. The farmers that hire migrant laborers are powerful. You do not find someone hiring migrant laborers that do not have any power.

Sometimes they are the county commissioners. They may be in the House of Representatives or they may be a state senator, but they have power if they are not in an elected position.

Now, in the State of Maryland in the mid '80s we had and we still have the largest camp that's been identified on the East Coast. That's in a place called Westover, MD. I live only five miles from that camp, and I have seen the deplorable conditions. Some of the conditions still exist.

Back to the Washington Post. In the mid '80s the Washington Post had five front page articles, and we were able to get some changes made in the State of Maryland.

It's good to have hearings, but unless we can get the news media and other publicity behind us and supporting us, I think we are spinning our wheels and are not going to get too much done.

We have also been able to get the Federal judge in Baltimore City to make a ruling on who is the employer. The Federal judge ruled that the farmer and the crew leader are joint employers and they are responsible for the migrants. So I think if we could get that information out across this country, we could share that some things are being done.

Now, that was a District Court judge. It was not the Supreme Court. So we may have to get this a little further, but the State of Maryland cannot do it all by themselves. We need some help.

Thank you.

Ms. **Fisher.** Thank you, sir.

Mr. Gross, may I ask you a question now, please? Is cane cutting among the hazardous occupations mentioned previously? For instance, can children go out into the fields and cut cane?

Mr. **Gross.** No, I do not believe it is one of the hazardous occupations. I can check on that to be sure, but it is my understanding that it is not.

Ms. **Fisher.** How is that list developed? Do you make recommendations to the Secretary of Labor? How is that?

Mr. **Gross.** It is developed through the rulemaking process. All of the hazardous occupations are part of the regulations. And so to either add or delete any hazardous occupation would require a notice and comment rulemaking in which if we were adding a hazardous occupation, we would need to make a record to indicate why a particular occupation was hazardous and go through notice and comment.

After analyzing the comments, if it supported the record that the occupation was hazardous, we would implement the rule.

Ms. **Fisher.** So the department really can initiate that review?

Mr. **Gross.** That's correct.

Ms. Fisher. Do you do that for occupations that you consider hazardous or for areas of work?

Mr. **Gross.** The hazardous occupations in both agriculture and in nonagricultural employment have not been substantively modified for some time. We have made some minor modifications to the nonagricultural hazardous orders recently, but those were mostly in the form of clarification.

There has not been a major substantive change in those regulations for some time.

Ms. **Fisher.** Thank you.

Mr. **Rollason.** Madam Chairman, in your question, are you indicating that you have had testimony of children cutting cane?

Ms. Fisher. No. We have not had testimony of children cutting cane per se. I do know that children are in the cane fields.

Mr. **Rollason.** Because in Florida the qualifications of endurance and physical and mental that you have to meet would certainly preclude any child. That's never been an issue that I've known about. So that's what I wanted to ask.

If I may, Madam Chairman, I would like to make one comment to Dr. Huerta. I certainly, Doctor, have admired over the years your persistence on behalf of the health and welfare of farmworker children.

I just want to take this opportunity to tell you how I view you. I have never been a strong union person, but I certainly have admired your years of devotion. I'm sure you could be in the several hundred thousand dollars a year bracket but for your heart. I want to thank you.

Ms. **Filoxsian.** Madam Chairman, on the issue of the cane cutting, you might point out that the reason the children aren't in the cane fields in the State of Florida is because the sugar growers in the State of Florida don't use domestic laborers. They import their workers.

The way those workers are selected is that they're examined. They're asked to bend over. The muscles in their back are felt, much like being on an auction block. Their arms are felt. They're examined for strength. And then they are selected, and they're boarded on an airplane and brought to Florida to harvest the sugar cane.

They're required to cut one ton per hour. No child could do that, and no domestic worker will do it for the wages that they are paid. And they are under a very strict contract. If it's broken, they're sent back to Jamaica.

I would suggest all of you if you get a chance to see Stephanie Black's video "H2 Worker."

Ms. **Fisher.** Thank you.

Yes?

Dr. **Zalar.** My name is Dr. Mary Zalar. I'm a past Vice President of the American Medical Women's Association and currently the Chair of the Human Rights Task Force at the Women's National Democratic Club.

I would like to address two or three specifics to Ms. Mull. Regarding the infant mortality rate, do you know what the etiology is of that 25 percent infant mortality rate? Is it prematurity? Is it congenital birth defects of some sort?

Ms. **Mull.** I can refer you to the source of where we extracted that information.

Dr. **Zalar.** OK. The second question, is there any sort of identification of pregnant women farmworkers? And if there is, is there any limitation on their ability to work in the fields? I'm thinking of pesticide exposure in the first trimester.

Ms. **Mull.** There are no limitations under current laws or under the EPA's worker protection standards that would limit a pregnant woman from working in the fields. However, I could not speak medically because I don't have that kind of medical background myself. I can refer you to individuals, but I do know that certain pesticides are known to have an impact on--

Dr. **Zalar.** Neurological.

Ms. **Mull.** The neurological impact.

Dr. **Zalar.** OK.

Ms. **Mull.** The impact that pesticides would have on the fetus? There are individuals who are much more knowledgeable than I.

Dr. **Zalar.** No, I wasn't asking you to address the specifics of that type of thing.

The last question, one of your statistics alludes to the rate of parasitic infection. I was just wondering if--I hope I'm not getting too picky. Are there one or two parasitic infections that sort of are a higher incidence than any of the others?

Ms. **Mull.** These are reference to water, around the water.

Dr. **Zalar.** Water. OK.

Ms. **Mull.** Water is the major source of parasitic infection, as I understand.

Dr. **Zalar.** OK. Thank you.

Ms. **Fisher.** Would any of the panel care to make any other final comments before we conclude?

Ms. **Mull.** I would just like to make a couple of comments. I think one of the issues that has created a lot of problems for farmworker programs that are trying to serve farmworkers has been the inconsistency in the definitions that have gone across the program lines. The Migrant Education Program, when they talk about former migrants, under our definitions that's a seasonal farmworker.

Certain groups in meat processing and in other types of processing within migrant education are eligible under Migrant Education, but under other programs, they are not eligible.

Under Migrant Health and Migrant Head Start, they aren't able to serve seasonal farmworkers, which by most of the description that you find here, really, it's an occupational issue.

If you are a farmworker, whether you're a migrant or a seasonal, you are still faced with the same problems as other farmworkers. Migrants do have additional special problems because of their migration patterns, their moving from one area to another, and the impact that that has. But as an occupational group, farmworkers overall are affected.

Ms. **Fisher.** Thank you.

Senator **Perry.** I might--oh, go ahead, Wendell.

Mr. **Rollason.** I just want to comment on the same line as the distinction of the current and the former. We find in the public schools records that there's an infinitesimal difference between the educational accomplishments of both groups because, obviously, the damage that has been done in the migrancy, just because the family has found that they can make it in one area, it takes years to undo what the small children have already had done to them by the fact of migrancy.

Thinking that we can just say, "Oh, well. This child is now stationary, and his or her troubles are over" is far, far from the truth.

Senator **Perry.** I would just again refer to this report by the Administrative Conference of the United States Coordination of Migrant and Seasonal Farmworks Service Programs, which came about at the request of the commission on which Wendell served, and the issue of definitions and what is a very important issue.

What they suggest is that if there were some coordinating body put together under the statute, they should be very precise, with a charge to look at one, two, three, four, or five things and then maybe go on to other things, but one of the first things is to look at this whole definitional issue.

Ms. Fisher. I'd like to thank all of you for coming and thank all of our panelists. As we have heard, there seems to be some positive progress in the area of education.

A lot more work needs to be done, but it does seem to be an area where there is some cooperation between the growers, the government, and the workers. We need to build on that positive approach and try and work through the Congress in those areas where positive work is being done to push that forward.

On the other hand, it seems as though in regards to child labor, there are gross violations occurring and a consistent pattern relating generally to programs serving migrant workers. That is a lack of funding, lack of enforcement, and lack of political will.

It's hard not to get outraged and passionate about this issue, but we must work for solutions. There are so many thoughtful people and intelligent people working in this field trying to arrive at those solutions.

Ms. Filoxsian has mentioned Coca-Cola as being a firm that has done a lot of positive things. We need to find that not every firm is the bad guy in this. There are a lot of companies in this area who are doing positive things.

It would benefit all in the advocacy field to put the pressure on Congress and the administration to build on the strengths and correct the weaknesses. So in our next briefing we will look at solutions.

Thank you all for coming.

[Whereupon, the foregoing matter was concluded at 12:28 p.m.]

FARMWORKER WOMEN'S ISSUES

Monday, March 1, 1993.

Washington, DC

The Commission met, pursuant to notice, in room 2226, Rayburn House Office Building, South Capitol Street and Independence Avenue, NW., Washington, DC, at 3 p.m., Jane S. Fisher, Deputy Staff Director, presiding.

Forum panelists: Trini Gamez, Emma Torres, Leticia Maravilla, Hazel Filoxsian, and Catalina Broyles

Ms. **Fisher.** On behalf of the Commission on Security and Cooperation in Europe, better known as the Helsinki Commission, I'd like to welcome member of the National Farmworker Womens' Advocacy Council.

This briefing today is part of the Helsinki Commission's ongoing series of briefings designed to examine the broad range of issues affecting migrant workers. Testimony given today, as well as the question and answer period, will be part of the Commission's final report, part of the official record.

Our final briefing, which will likely be held next month, will focus on solutions to problems facing farmworkers. Today we will hear from several women from different parts of the United States, on aspects of health care and other issues.

I think that we'll start with Ms. Torres, who is from Arizona. There's no bias here just because that's my home state. Ms. Torres will discuss farmworker health issues.

Ms. **Torres.** Thank you very much.

Good afternoon, everyone. My name is Emma Torres, and I come from Arizona. I represent farmworkers from Arizona and California, I would say, since we are a home base for migrant farmworkers.

In this group, we have come about, thanks to the Farmworker Justice Fund. There are representatives of nine states and Puerto Rico. By all of us gathering, we have found out the problems of migrant farmworkers are similar or the same, we might say. It doesn't matter where they're coming from or what the state is.

We have decided that we would speak in representation of all of the group in regards to different topics. My responsibility today is to speak about health. And then from then on, each of my companions here will take their turn.

All the migrant farmworkers are the ones to put the food on the tables of this country. They are the group that has been the most ignored and neglected, especially in regards to health care.

This group is--I don't know if I'm just saying it because I come from that background. It's the group that works the hardest. And it also has the highest rate of work-related injuries. But, again, they're the least protected in regards to health insurance and medical care.

We have been seeing that this problem has been going on and on for years and years. And we are tired of that. We have seen how our people are getting sick with pesticides. We are seeing how our children are getting sick with gastrointestinal diseases, how our older migrant farmworkers get tuberculosis, diabetes, all the problems that are silent killers, I would say, and many times is just because of the work that they perform and the living conditions that they have.

Migrant farmworkers, again, have been always neglected. And they don't have a voice. It seems like nobody listens to them. So that's our hope today. We are here to represent them from all the nation. And we want to become a voice for them.

Thank you very much.

Ms. **Fisher.** Ms. Maravilla? Ms. Maravilla is from California, and she will speak about farmworker exposure to pesticides.

Ms. **Maravilla.** (via interpreter) Good afternoon. My name is Leticia Maravilla, and I'm a farmworker. Thank you for inviting us here to be able to speak to you today.

We're here to bring a message regarding pesticides, to inform you how this affects our diet and our daily living for those of you who don't understand or don't know.

For those of you who don't understand, our children are affected by the use of pesticides, just like your children are, but only more so. Our children work and play in the fields. Your children eat the foods that come out of those pesticide-treated fields. And you need to learn something about this. We hope through this effort to be able to express to you the truth regarding this use.

The threat posed by the use of pesticides is very important because it affects all of our communities, especially because many women farmworkers lose their children before they are born.

I have passed through many areas of California where we have seen the impact of pesticides, where there are women who are incapacitated by heart problems, by diabetes, by vision problems, and this is because they work in the pesticide without adequate protection.

The reason we have come here today is we are tired of losing time visiting the state governments because they have been unable to adequately protect us.

We have got very important cases in California where children have been born with birth defects as a result of the pesticides. This is the reason that we have all come here today, that you take immediate action regarding the use of pesticides.

And we hope that the decisions made here will in the end assist us because we form the base for all of us here because the farmworkers depend very much on the money that you all spend on buying vegetables and farm products.

Thank you.

Ms. **Fisher.** Thank you, Ms. Maravilla.

Now we will hear from Ms. Gamez, who is from Texas. And she will discuss housing issues.

Ms. **Gamez.** I am Trini Gamez from Hereford, TX.

Just like my sisters here, I feel like that the farmworker from the beginning of this nation has been the backbone of the country because we put the food on the table. And we have been the most ignored and neglected group.

Our people work under very stressful jobs with no affordable housing, sometimes with no housing at all. You can go to west Texas and find people camping out in the fields in the summertime and living out of their cars.

The field sanitation is not enforced. Therefore, the health problems are many, just as Ms. Torres and Ms. Maravilla have already expressed, because of the pesticides.

They have to live in shacks. They have to live in the parks sometimes. And they will have to go out to the service stations to use the bathroom. That's how bad it is.

And we are here because we want everyone to know the conditions that the farmworkers have to live under and being underpaid, not being able to afford to go to a doctor because if they go to the doctor, they don't have money, they cannot be treated. Then the questions are asked, "Well, why didn't these people come to see a doctor on time?"

And there are many, many problems facing our farmworkers today that have not changed from the '30s, '20s and '30s and '40s and '50s. The problems are still there. And we are hoping that now with this new administration, things will change.

I think that if at least our farmworkers are paid what they should be paid, they would not have to have their children working in the fields because if their parents could earn enough to make a living, then they could afford to pay a day care center or baby-sitter and live just like the rest of our society.

Thank you.

Ms. **Fisher.** Thank you, Ms. Gamez.

Ms. Filoxsian is from Florida and will address issues of justice for farmworkers.

Ms. **Filoxsian.** I guess in closing the whole issue is telling you that our problems are many, but the root cause of our problems is a lack of justice for farmworkers in labor.

The abuses by the crew bosses are rampant. We have crew leaders who work their crews under the gun, and I mean that literally. We have contractors who have senior citizens confined to labor camps enclosed by six-foot chain link fences topped with barbed wire. These citizens are worked seven days a week and are paid in two-fifths of wine and a carton of cigarettes.

We have contractors who force workers to ride in vans that have no seats, no safety belts. One in particular--I don't know if you've ever heard his name--Willie Lee Simons, in 1991 forced 11 workers into a van en route to work at a horticultural job.

A rock truck ran a stop sign and broadsided the van. These men were forced to sit on boards thrown across cinder blocks. When the van was hit by the truck, it flipped about four times. Those blocks and those boards were like missiles.

Four of those 11 men died. The other seven were severely injured. One lost hearing in--I don't know right or left ear, but he lost his hearing in one of his ears. They suffered broken bones.

They were forced back onto the labor camp to live with the contractor. They were charged double the cost of their medical prescriptions once they were filled. They were charged to be taken to and from the hospital for examinations and for the doctors to keep seeing them.

On that same labor camp, as I mentioned to another group this morning, there is a cab of an 18-wheeler. Inside that 18-wheeler, chained inside, I might add, is a Vietnam veteran who is worth over $1,000 a month to the contractor in veteran's benefits. And he's only let out when those benefits arrive so he can go to the bank and sign them over.

There is no justice in our labor. And the work we do, it's a thankless job. It's not a demeaning job. Ours is hard, honest work. But it's a thankless job.

It seems that for every dinner the citizens of this country enjoy, that's the less farmworkers are thought of and appreciated. And that does not help us at all.

In 1956 on a labor camp in Belle Glade, FL, a 6-year-old girl was raped repeatedly by a contractor. Twenty-eight years later that same girl was on a labor camp in Wilson, North Carolina and held and forced into sexual slavery, right here in the United States of America. There was no justice then, and there is no justice now.

The crew bosses and contractors or crew leaders illegally deduct wages from the workers' pay. There is no justice in that. There are laws that would protect us against that if there were enforcement. There is no enforcement. So there is no justice.

The disclosures that we are required to get about our pay, about the locations of our jobs, what we will be doing, whether the fields have been sprayed, what is the time limit before reentry into the groves, many of us have asked our crew leaders for those papers.

Many of us have asked for receipts for our pay with our hours noted on it and the Social Security deduction noted on it. And those of us who did ask were looking for another job the next day. There's no justice in that.

And I guess what we are here to tell you is that until we, the farmworkers of this country, are viewed as something other than second-class citizens and given the justice that the rest of this country takes for granted and that etching into the Supreme Court Building includes those of us who make up the farmworker portion of this population, then our problems are going to continue.

Unless we can really salute the flag of this country and say "with justice for all" and have that "all" include the farmworkers of this country, those of us who set the tables of America, our problems will go on.

And 50 years, nearing 50 years, after Edward R. Murrow's documentary on "Harvest of Shame," the only thing that has changed for us is that those that were alive and able to work when that documentary was made are not now and have absolutely nothing to fall back on.

We can't retire from our work. We have no pensions to count on. And only if we are very lucky can we go apply for Social Security and not be told that ours was a nonworking number. There's no justice in that either.

Thank you.

Ms. **Fisher.** Thank you, Ms. Filoxsian.

And, finally, but not least, we will hear from Ms. Broyles, who will talk about child care and education for farmworker children.

Ms. **Broyles.** (via interpreter) I would like to say that the children from several weeks after they are born are out in the fields. So there they're picking up all of the pesticides which are sprayed over the fields. Also they live in cars or the families are forced to live in those ditches.

Also I experienced discrimination when I was growing up. The people who are in charge of bringing us to Head Start, it appeared it wasn't important for them to assist us.

What happens in the schools is that children are moved from one room to another. And they're removed from school after they have actually not learned anything at all. For that reason, many of our young women leave school.

Also many of the young women have been abused sexually by the men who are in charge, by bus drivers. Also they're punished if their mothers don't know how to read because if you can't read, you can't accurately fill out the necessary papers. And the children are punished by not allowing them to eat for several days.

Also for the farmworker children , in some schools they're only giving them cookies and water to eat instead of proper school meals. And so the discrimination continues and continues.

What we don't want is for our culture to be taken from us. We want our children to get more attention in the schools. We don't want our children to be left alone when they are coming home from school because they can be sexually abused then.

And there are some children who are manifesting lesions which are the result of pesticide contact. Children have been born with brain damage or without brains, without the top of the head. And that's why we want justice for our children.

Thank you.

Ms. **Fisher.** Thank you, Ms. Broyles.

Well, we have heard in a nutshell many of the problems that we have been hearing over this series of Helsinki Commission. Farmworkers have little or no access to our justice system, and laws designed to protect them, although sometimes adequate are often not enforced. In other cases, migrant workers are excepted from laws that apply to everybody else. They also face discrimination and often lack adequate health care, day care, and education.

Are there any questions of our panelists?

Ms. **Filoxsian.** I would like to add something, if I may. There was a bill that Congress wanted, some members of Congress would have passed. I believe it was about a year ago. And I knew it as the Stenholm-McCullom bill.

Just to make a point about the justice for farmworkers, they would limit the service of the Legal Service attorneys, which are the only legal representation that farmworkers can afford.

They would have tied the hands of our legal representation in the course of law. The Legal Service, our attorneys would not have been able to continue in the outreach service that is so important to farmworkers when they go into the labor camps. They would have put a stop to the outreach.

And this was probably the most outrageous thing that could have happened to us. To show you the lack of justice for farmworkers is to be represented in a court of law by an attorney who can only go so far on your behalf.

Ms. **de Anda.** If I may, my name is Irma de Anda. And I would like to add a little bit on child care. I come from the State of Oregon, and our funding has been cut back a lot on child care.

In our city or in our county that I know of, there's only one day care facility. This is to service all the migrant people that come up to Oregon and the seasonal farmworkers. It is located 20 to 30 miles away.

How many of you mothers would feel comfortable leaving a child there at 5 o'clock in the morning and having to go pick up that child maybe at 3 o'clock when the center closes or maybe at 6?

What happens if that child gets sick? If you're working out in the fields picking apples and pears, which a lot of us women have to do during the picking harvest, what happens to that child?

It's happening. It's a living reality where I come from. I don't like my baby being that far away from me. Because of that last year, a child was out in the orchard, and it was run over by a tractor. Its head was run over by a tractor's wheel.

It's happening. Let's stop it. You can do something about it. Pass laws. Give the funding. We need it.

Ms. **Filoxsian.** Enforce the current ones.

Ms. de Anda. I don't want this baby out there, and I'm sure that you wouldn't want your children out there, too. Please help us. We need your help.

[Applause.]

Ms. Wilk. My name is Valerie Wilk, and I work with the Farmworker Justice Fund, which is sponsoring the Farmworker Women's Health Project, and now the group has changed the name as to the National Farmworker Women's Advocacy Council.

I would like to introduce the women who are not up front and have them stand and turn around if you would like to say your name and the state that you're from. Do you want to start here with Blanca?

Ms. Moreno. My name is Blanca Moreno, and I come from Apopka, FL. I'm a worker in a plant nursery.

Ms. Macias. My name is Marina Macias, and I'm from California and represent the farmworkers and the voice of the farmworkers.

Ms. Barreras. My name is Dora Barreras, and I am from the State of Washington. And I'm a farmworker.

Ms. Sirirathasuk. My name is Pang Sirirathasuk. I represent Pennsylvania.

Ms. Velasquez. (via interpreter) My name is Vicenta Velasquez. And I come from Toledo, OH. And I used to be a farmworker, but I still help migrant laborers.

Ms. Jimenez. (via interpreter) My name is Carmen Jimenez, and I represent Puerto Rico.

Ms. Diaz. (via interpreter) Good afternoon. My name is Margarita Diaz, and I represent New Jersey.

Ms. Fisher. Would you like to make any comments, Valerie? Do you have anything to add?

Ms. Wilk. I was wondering maybe if any of the other women would like to add anything to what has already been said, but come up to the mike.

Ms. Macias. I want to thank you, first of all, for letting us come and taking the time to meet with us. I do want to add to some of what Leticia had said. Like I said, we're both from California.

We know how much our farmworkers have suffered and we're suffering now because I'm also a farmworker and the children in the fields, the farmworkers, their parents, how they got their kids working out there in the fields, how they're getting hurt every day by picking the grapes, by tapping the garden with their--they've got to have a sharp tool to work with.

These kids work to 8/9 hours a day and to make like maybe $2/$3 because they want to help their parents. What happens with these children? They don't take the time to go to school or they can't go to school because they've got to help their parents.

These kids, they have a dream just like all of us. We all have a dream, hoping that one day their dream will be a reality. But what happens? They turn to drugs because they don't have the money to go to school. Their dreams just disappear.

That's one thing that maybe if we had the funds to send them to school, to read, have them learn something, to become something, then maybe we wouldn't have so many gang members on the streets.

And that's what I wanted to add. Thank you. And I hope you guys can help us. Thanks.

Ms. **Wilk.** Would anybody else care to make a comment?

Ms. **Diaz.** (via interpreter) I would like to speak to you a few minutes about the organization that I work for, the Farmworkers Support Committee (CATA). We've been fighting for eight years to get the right to know law passed in New Jersey.

We have gone to Trenton, where the senators are. We have brought farmworkers to testify. We have helped protest. But until now they haven't listened to us.

I think for me this is because they don't have any interest in helping the farmworkers. This is an injustice because a farmworker, just like any other worker, should have the same rights.

Farmworkers are the only workers in the country that don't have the right to know what pesticides, what toxics are used in the work site. Farmworkers are human beings, like everyone else, and they should have the right to know about the pesticides.

And I hope that you will join us and offer your support to change the situation to get the right to know. Thank you.

Ms. **Moreno.** (via interpreter) Good afternoon. My name is Blanca Moreno. And, as I said before, I'm from Florida, from Apopka. I'm here to represent the Farmworker Association of Central Florida, which is a group that was formed about 10 years ago to represent the rights of farmworkers.

As you may know, Florida is a right to work state. We don't have the right to organize unions, which is the main reason why we organized and formed the association.

In our area 80 to 90 percent of the farmworkers are women. I think that now is the time for us women to get together to push to force, to demand that something be done. And one issue is the lack of resources, of funds.

I want to emphasize again the importance of the right to know law. As farmworkers we don't have the right to know what pesticides are being used. We don't have the right to get training about what chemicals we're working with.

In our area we, the association--I say "we" because we're talking about the association and our area, but we have housing, the labor camps. And there's no right to access for people to get into the camps to see farmworkers. This is the way that we're trapped. It's a way that we are denied our justice.

We want this message to go to Mrs. Clinton and also to the new administration that farmworkers need to be respected. We need to be considered.

Thank you.

Ms. Fisher. Go ahead.

Ms. Broyles. (via interpreter) OK. Also I would like to send a message out to Mrs. Clinton and to the administration that our women who are working in the fields are--that as they're picking the fruit, they're also dying in the fields by the contact with the pesticides and because they eat what they pick when it's not safe.

As a result, the rest of us in farmworker families are also affected by this use of pesticides.

Ms. Fisher. Could I ask any of you to comment on what happens when you try to bring the problems to local federal officials in your area?

Ms. Moreno. (via interpreter) Last year we were taking a bill to Tallahassee on right to know. We spent so much time going from room to room to room, going from legislator to legislator to legislator.

Even though we spent all of this time, we still don't know if anything is going to happen. And for that reason, you lose heart that anything will change.

Ms. Fisher. Ms. Filoxsian?

Ms. Filoxsian. As a registered lobbyist for farmworkers in the State of Florida, I can tell you what it comes down to in our legislature is big money versus the people. And it's obvious who wins.

Agriculture is a $2 billion a year industry in the State of Florida. But what is forgotten is the people that harvest for that industry. The only concern on the floor of our capitol towards any of the lobbyists is: Can the people you represent afford me a vacation in the Bahamas? And we can't.

Ms. Fisher. But you have local Department of Labor officials, for example, in your areas. Can you not go to these men and women and say "This abuse is happening" or "That abuse is happening"?

Ms. Velasquez. (via interpreter) My name is Vicenta Velasquez, and I come from Ohio. I'm talking about what happens when we visit the Department of Labor.

We go there and we present our case, and they say "OK. We're coming now or later. Tomorrow we'll get to you." And later they call us by telephone.

And that's why in Toledo, OH, we have had demonstrations. We have had boycotts of tomatoes, cucumbers, apples, and all kinds of products, farm products.

But the laws protecting us from pesticides, assisting pregnant women workers have not affected us, have not reached us. This is something serious because our children are working in the fields, walking in the fields with their mothers. I have nine children, and all of them were working in the fields with us. But now my husband died 10 years ago.

And I tell you that we were working in the fields when an airplane flew over and sprayed pesticides. And he said, "Don't worry. The spray won't hurt us." But I took the children to the car. We left the field, but he didn't. And so then he later developed ulcers on his hands and arms, his skin, and headaches.

And even cleaning the clothing didn't take out the pesticides. We had to wash his clothing separate from everything else, separate from our clothing. This is why I want our message to be taken directly to Mrs. Clinton.

Thank you.

Ms. **Fisher.** Thank you.

Ms. **Filoxsian.** I'd like to try and emphasize if I can what happens in our local areas. In 1989 a 15-year-old boy was killed in the groves during school hours in Fort Pierce, Florida. We called the Department of Labor. OSHA was notified. OSHA fined the grower, Evans Properties, $1,000.

Now, that same year "Forbes Magazine" listed Mr. Evans as one of the 10 richest men in the State of Florida. So I'm sure all he had to do at the time was just go right into his pocket and give the guy the $1,000.

That is the reason that we still have these problems because the fines are not strict enough. The own language men in this category understand is when you hit them in the pockets.

So in order for us to be sure that there would be no more problems on Evans Properties with school children working, we called attention to the issue. We found an ambulance-chasing attorney.

Evans settled out of court for half a million dollars. And whenever you pass any of his groves now, there are huge signs, probably the size of the square in that wall, "No One Under 18 Admitted."

The Department of Labor couldn't get it done. OSHA couldn't get it done because a $1,000 fine for that violation was a slap on the wrist. So when we go to our local offices, we file a complaint. Sometimes they're not fined. Sometimes they're not even cited. They're given a warning.

If we don't get enforcement from these offices, then what happens is we become "What's the use? Why go and take a day out of the field and sit up in their office all day answering questions and they're going to get on the phone and call Mr. Evans" or Mr. whoever it is that owns the property "and say 'Listen. We've got a complaint here. You don't have any bathroom facilities in your fields. You should do it'"?

The next day he may have some in there for a couple of weeks, but what's that going to do to me? How is that going to erase the humiliation I felt when I had to relieve myself in the trees and was the only woman in the grove?

That's not going to help me any because all of a sudden he has them. He should have been observing those laws in the beginning. And the only reason he wasn't, because he feared nothing, no fines or citations from the Department of Labor.

In other words, the Department of Labor in the State of Florida is a joke. We need a cellar to attic cleaning job. We need to replace the people who are employed with the Department of Labor with people who work for the Department of Labor.

We have 16 compliance officers to oversee the work of over 5,000 farm labor contractors. It gives you an idea what kind of shape it's in down there.

Ms. Broyles. (via interpreter) Many of the farm women have fear of going to the Department of Labor because ultimately the word gets back to the grower, to the farm owner. And then we lose our work. And how are we supposed to take care of our children after we have been fired?

In October or November I was in a meeting with various agencies. We were watching a film about the conditions and how farmworkers live, which also showed the places where the people had to sleep, which were inadequate.

We were trying to show these agencies how the farmworkers are forced to live. And the agency people just started laughing and saying, "Gee, look how those people live. See what those farmworkers are like."

In the next meeting they said, "Those things are OK for farmworkers." And the grower arrived and denied all of the things that had been said, that they keep the water at 85 degrees. It's always one excuse after another.

There are no bathroom facilities. The growers could carry the toilet paper in the truck.

Ms. Wilk. What was happening is that the agency people were saying to farmworkers one thing, what the laws and regulations said. They would turn around and talk to the growers and say, "Oh, you don't have to do this. You can provide hot drinking water. It doesn't have to be cool. And you can just keep the toilet paper in the truck," rather than putting it in the toilets where the workers would have access to it.

Ms. Broyles. (via interpreter) And also people from OSHA said that "We have all of these laws, but we don't enforce them." They laughed and they said, "Well, you know, do what you want because we're not going to do anything about it."

I have the name of the person that said this to me, and I can give it to you.

Ms. Fisher. Ms. Gamez?

Ms. Gamez. Yes. Just to reinforce what Hazel just said, in Texas we had a case back in 1986 or 1987. There were about 150 farmworkers that had been sprayed in Fort Stockton.

We received a call about 3 days after they had been sprayed. When we got there and saw how sick they were, we--the doctors in Fort Stockton would not treat them. So Legal Aid attorneys arrived. They flew a nurse in from Odessa to do the blood tests and everything.

The Department of Labor came, and they did all of the investigation. They took pictures of the fields, and they did everything. It was a proven fact that they had been sprayed.

So Jim Hightower was with the Department of Agriculture at the time. And he conducted an investigation. As a result of that investigation, he lost the elections that year, and nothing was done. So that's how powerful the Ag Department is.

Ms. Filoxsian. Yes. And in our legislature in our various states, we have too few who are sympathetic to the issues that farmworkers are faced with. We are met with the most bigoted of attitudes.

One, for example, the representative of North Palm Beach County, a very affluent area, the wife of Congressman Tom Lewis, Marian Lewis, stood before the entire legislature and said, "These people don't live like you and I. There needn't be a commode in there or a stove in there. How many of you have gone to these labor camps when they were new? And then six months later, you go back after those migrants have ripped out the commodes and ripped out the appliances. They're not used to those facilities where they come from. If you give them money, they don't know how to use the money, how to spend the money."

And I'm sitting, feeling very discriminated against, but the humor in this thing is I'm trying to get a picture in my mind of a Latino or a Haitian or some immigrant standing over a commode saying, "I no got this in my country. I don't want it here."

None of the people that I know would do that. But that is the mentality that we are met with in our government. And that is the most frustrating part of the work that these women here have before us dealing with that type of ignorance.

Ms. Fisher. Any other comments? Yes, ma'am?

Ms. **Jimenez** (via interpreter). I wanted to add, Ms. Fisher, you asked if we have gone to our officials in our states, someone to help us. I tried to present a case to the Labor Department.

We waited like about 4 or 5 hours before the official could see us. We weren't even there five minutes when he said that he couldn't do anything about it, that we had to get some proof of the work that the farmworker did and the money that they owed her.

So we had to make a court date. By the time she got all that proof and went back, she was fired. They still couldn't do anything. And they keep us just jumping from one office to another to another. So I would like to know: What could we do about it?

Thank you.

Ms. **Fisher.** God, if I had the answer to that. I wish I did have the answer to that. I know it's very disheartening. You need to do what you're doing this week on Capitol Hill. And you need to keep bringing it to the attention of groups like ourselves and your representatives. It will change. There are more people who are becoming a little more familiar with your problems.

And I have to say that I'm so impressed by everybody who is working in this field by the Legal Services people--they are doing extraordinary jobs--and by the various NGO groups. You just have to keep speaking out. You will be heard.

Well, thank all of you very much for--oh, yes, ma'am?

Ms. **Maravilla.** (via interpreter) I'd like to respond to the question: What can we do when facing these agencies, especially related to pesticides?

I worked for John Harris. It was a world-famous case. A whole crew of workers, of men and women, were poisoned. These injustices were later publicized worldwide.

Afterwards we got together, and we decided to organize and call the reporters from Sacramento. And they went to the archives and found the check for the fine, which amounted to only $200 for this case. There were 150 workers poisoned, and 14 died. And this is not only unjust. It's inhuman.

Ms. **Filoxsian.** Yes, yes.

Ms. **Fisher.** OK. Valerie, would you like to say something?

Ms. **Wilk.** Yes. One of the things we have on the table, I think, outside is--there are seven members of the House of Representatives who are cosponsoring a reception for the women tomorrow between 5:30 and 7:30 at the Library of Congress in the Mumford Room, which is on the Sixth Floor. And we would cordially like to invite the entire staff of the Helsinki Commission.

Ms. **Fisher.** Thank you.

Ms. **Wilk.** Thank you very much for your interest and for the ongoing work that you're doing and all of the other congressional aides and folks who are here and have expressed an interest in farmworker issues.

Ms. **Fisher.** Thank you.

[Whereupon, the foregoing matter was concluded at 4:13 p.m.]

POSSIBLE SOLUTIONS TO PROBLEMS FACING FARMWORKERS, THEIR FAMILIES, AND THEIR EMPLOYERS

Thursday, April 8, 1993.

Washington, DC.

The briefing was held in Room 2226, Rayburn House Office Building, Washington, DC, at 10 a.m., Ambassador Samuel G. Wise, Staff Director, presiding.

Present: Samuel G. Wise, Staff Director, and Jane Fisher, Deputy Staff Director.

Also present: Robert A. Williams; Arcadio Viveros; Sharon Hughes; Encarnacion "Chon" Garza; and Gloria Hernandez.

Ambassador **Wise.** Good morning everyone. Welcome to our hearing of the Helsinki Commission.

I welcome those of you who have come inside to our briefing. My name is Sam Wise, and I am the Staff Director of the Commission on Security and Cooperation in Europe. We're also known more familiarly as the Helsinki Commission, based on the fact that the international documents, international legislation that we are charged with monitoring was agreed in Helsinki in 1975.

More often the Commission focuses on human rights issues in other CSCE nations, but today we will explore possible solutions to problems facing migrant farmworkers, their families, and their employers in the United States. This is the fifth and final briefing convened by the Commission to examine migrant farmworker issues.

It is the Commission's belief that examinations of problems in our own country enhances both our understanding of our problems and our credibility when discussing similar issues in other countries.

The primary purpose of our briefings has been to promote public awareness of issues related to migrant farmworkers in the context of international human rights obligations undertaken by our Government.

Last summer at the Helsinki summit, leaders of 51 states of the CSCE, all of the states of Europe plus the United States and Canada, reaffirmed their commitment to promoting tolerance, understanding, equality of opportunity, and respect for the fundamental human rights of migrant workers.

Over 17 years mutual CSCE commitments have grown to encompass not only conditions of employment for migrant workers, but also health, housing, vocational training, education, special needs of children, cultural rights, social security, and equality of opportunity.

Since the Commission began its examination, a myriad of concerns have been brought to our attention. Instances of wage fraud, intimidation, harassment, and physical violence, including sexual and racial discrimination have been recounted. Substandard housing conditions, unsafe transportation, exposure to pesticides and other routine dangers lead to hundreds of deaths and injuries each year, and rates of infectious diseases and other serious maladies are much higher among this vulnerable population.

Farmworkers' access to services of all types is limited by the transient nature of migrant work, cultural and economic barriers, rigorous schedules, and fears of losing increasingly precarious jobs, and while the entire nation faces an economic and health care problem, safety net programs designed to help the neediest are most often unused or unavailable to migrant farmworkers.

It seems apparent in many cases migrant farmworkers are not adequately protected by federal laws, regulations and programs, and as a consequence, their health and overall welfare are at risk.

Today we have with us an impressive group of individuals who we expect will explore possible solutions to problems facing farmworkers and their employers. We will hear about working health care and education models, as well as community empowerment and labor organizing strategies.

We also believe it is of utmost importance to examine strategies through which growers and agri-businesses can protect the rights of their workers, while also maintaining the economic viability of their agricultural enterprises.

Next month, the Commission hopes to publish the proceedings of its briefings, along with statements submitted by interested groups and individuals. We sincerely hope that the attention we have focused on farm labor issues will help lead to at least some solutions in the important area of migrant farm labor.

And now I'd like to turn to our panel, and each of our members will have a chance to make an opening statement, and then we will have some discussion among the panel and entertain questions from the floor later in the morning.

May I start with Mr. Arcadio Viveros, who is Mayor of Parlier, CA, and chief executive officer of United Health Centers of the San Joaquin Valley, Inc. He is co-founder and Vice President of the California Hispanic Health Care Association of Community Health Centers, and has been appointed to the National Advisory Council on Migrant Health.

As Mayor, he has highlighted the effects of pesticides on local residents and has worked to provide affordable housing to farmworker families in Parlier.

Mr. Viveros.

Mr. Viveros. Thank you very much, Mr. Wise, honorable members of the Commission.

As indicated, my name is Arcardio Viveros. I am the mayor of the City of Parlier, a farmworker community in the San Joaquin Valley in California. I'm also the executive officer of a migrant health center that operates five clinics in California in the San Joaquin Valley, the highest migrant impact area in the nation, and as you know, California has 1.5 million migrant and seasonal farmworkers of the five million of the nation. So as you can see, we're in the midst of providing services to this population.

My involvement as an advocate for farmworkers and migrant needs has brought me here in a very humble way because I am not an expert. I'm a person that has worked and labored with farmworkers in my life and in my professional experiences.

As indicated, I'm a member of National Migrant Advisory Council on Migrant Health that advises Secretary Donna Shalala on issues affecting the health of migrants and seasonal farmworkers. I am also in the Executive Committee and founding member of the National Hispanic Housing Council. The Council is working with Secretary Cisneros of HUD to implement policies that would assist the housing needs of migrants.

First of all, I would like to thank you for inviting me to testify on finding solutions to assist the migrants as they arrive to the community like mine. Also in a humble way I would like to share with you my experiences working with this population so that in finding solutions, we can probable replicate what I'm about to tell you and what I have done in my community.

I am a migrant. I came to this country at the age of 15. I remember vividly crossing the border in June 20, 1961. I came with my family to join my father, who was a "Bracero" working in the Bracero Program. For the 15 years of my life, I basically grew up without a father because he was a "Bracero" working in all the states in which he could get a contract from year to year in the Bracero Program.

As you can imagine, not having a father, I was happy that we could join together, but I found out as soon as we came into the country that our family had to split again because two of my family members and myself immediately became migrants and had to travel to the San Joaquin Valley from Southern California to pick grapes, peaches, plums, nectarines, you name it, I did it.

Two weeks right after I arrived in this country, I became a migrant immediately, and that was done because my father could not afford feeding us, and therefore, we had to go and work ourselves to help them with the finances.

So I arrived Parlier as a migrant laborer picking the fruits of the valley, and Parlier is a typical farmworker community that you will find in the

Southwest. It's 8,500 population. It's 99 percent Hispanic. We have the highest, I guess, in percentages of Mexicans of any city in the United States, and also the population, 8,500 people, actually is the official U.S. Census count, but our count, in city hall we say we have about 12,000 people, and the differences between that count is because about 8 to 9 months out of the year, we have the migrants and seasonal farmworkers that arrive at our community, and so our population swells for the majority of the year, although the U.S. Census doesn't give us our credit for the population.

Therefore, the United States has cheated us in the allocation of federal dollars that are distributed according to population to a community, a migrant community like mine. So that has been a fight with the U.S. Census since the 1990 census was done.

In terms of housing, as you can imagine, there's people or there have been people living in the cars in the park, in garages doubling up with relatives and in the backyard under trees, and so as a mayor, I was elected basically two and a half terms ago. I'm in my third term now. When elected, 10 years ago, I decided that my principal obligation to was find people ways and means in which we could house them somehow.

I inherited a $1 million deficit in my city. Therefore, the resources were very limited. We could not even file for bankruptcy because in California, you've got to pay the fees before you can actually file. No attorney would take your case if you don't have money ahead since you're going to file for bankruptcy.

I tried bankruptcy, but I could not do it. So I had no choice but to bite the bullet and come out of the stuff. Parlier is now financially stable, but it has been a trial for us.

In order to do that, I found out there was a law in California which we could utilize in which it's called the redevelopment law. The redevelopment law allows you to actually take a blighted area, register with the state and with the county so that this area is designated redevelopment area. Any construction, any improvements to the area would actually give the redevelopment area tax increments. The agency that administers the area receives the tax increments.

So if a particular area started in a particular tax base, and if you went ahead and build something on it, then the new taxes, the differences between the old tax levy and the new one, the agency keeps the difference.

So what I did, I actually convinced the county government and the state to allow me to have the entire city be in this redevelopment area plan, and so therefore, I started attracting development. I told developers, "come to my city, you know we don't have any money now, come to my city and build something on it--I want housing; I want housing for farmworkers--we could therefore probably share the city's tax increments if you prove to me that you need some money; if so probably we can share the tax increments with you."

And so we can calculate very easily what tax increments are possible. For example, if you are a developer and you want to build affordable housing in my community and you are going to invest $5 million, I can calculate that the city's agency will get about $700,000 in tax revenues. Therefore, as a developer and you need the city's assistance, first of all you have to prove to me in some way that this money can go toward the reducing the price of the home, or if you are going to build apartments, that you are going to pass this money to the renters in rental subsidies.

The redevelopment program can be utilized to attract developers because nobody wanted to build on our community. It was blighted. No one wanted to invest, but I was able to do investments in my community.

The first one was a developer that had an interest in farmworkers, and they invested $5 million, and so we were able to share $200,000 with them. We floated a bond, and with that bond, we built the streets, sidewalks, and we put lighting. They build stucco homes with tile roofs, very nice. The value of the homes in the metropolitan area in Fresno, which is about 30 miles away, would have been a value of $100,000 or so. The homes we sold basically were for $40,000 or $60,000, and we also got the State of California to contribute toward additional price reduction. So another $10,000 were knocked down from the sales price, the California's program in which a farmworker gets a subsidy from the state reduces the price so the buyer could afford making the monthly payment. For collatoral the State puts a lien on the house for the next 10 years. If the farmworker sells the house, then the state gets the money back, and therefore, nobody loses any money, but if you keep your home after 10 years, then that loan becomes a grant and nobody will bother you after. The program officials want farmworkers to own their home and prevents them from making money on real estate.

The city council of Parlier was very grateful that we got into this program. The new idea permitted us to build a lot of new homes. Over 500 homes have been built, and we also have over 300 apartments that have been built.

In the national scene, it is estimated that in order to house the migrants in this country, we need 800,000 units. There has been some legislation that has allowed some monies to be used by Farmers Home Administration to build affordable housing for farmworkers and migrants, although some of that money had been allocated. Apparently there had been some problems in actually distributing it out into the rural areas of this country.

In talking to Secretary Cisneros, I was very encouraged that for the first time HUD has indicated a willingness to do something about migrant farmworker housing. The past Secretary, Jack Kemp, invited me, along with other Hispanics, to his office, and we asked him specifically if HUD had a policy on housing for farmworkers and migrants. Sadly, he said, no, it was mainly an urban agency that was there to provide housing in urban areas, housing and urban development.

So for some reason there is a division of responsibilities between HUD and Farmers Home Administration, and I see that that is not good. So as soon as Secretary Cisneros came in, we proposed the same action be taken. He is very much interested in providing housing for farmworkers, and in fact, he has made that as a commitment of his administration.

So I see that cities like mine throughout the country that receive CDBG funds from HUD, that in some way through the block grant allocation of Federal dollars the cities are required that 20 percent of their subsidy should be set aside for housing. This should be a mandated responsibility to the cities that receive these funds.

In California, the redevelopment law does provide that 20 percent of the redevelopment money made by the redevelopment agencies, 20 percent has to be set aside for affordable housing.

This is my proposal and I would like to offer it as a solution. I know that in some communities the word "migrant" scares people. They just want to use migrants for the harvesting of their crops. They do not realize that farmworkers because of low wages provide cheap food on their table. Everyone knows farmworkers get paid very little. They work hard. We have worked very hard. I suffered because of the sure hold situation in the past. My back is not very good. I have a shattered disc in my lower back, and so we worked very hard for the building of this country. Therefore, this country should pay attention to the needs of this very hard working population.

I would like to stop there. As a director of my health center, we did include other health issues that I think that Commission already has heard through the migrant health program that testified before today, but as a provider of health care, I feel very responsible that as the clinics that receive Federal funds, we do not see ourselves as providers of health care in four walls of a community clinic. We see ourselves as community oriented primary care providers that see housing, water contamination, work injuries, and so forth. We see the spray of pesticides having a potential effect of chronic conditions for those been documented.

And so we work in all arenas, social and transportation service arenas, trying to address the needs of this very vulnerable population that many people do not assist.

I think that sometimes we become callous to hear this over and over again, and it seems like we do not do too much about it, but I think that there are a lot of people out there working who are making the migrant farmworkers welcomed in this country, welcomed in their communities, and although there are some racist attempts to basically to harm this population. The Mexican Revolution was fought against the idea that you owe your body and your soul to the company store. There are cases in which this is evident in California. There are people out there replicating that system of servitude and slavery, and I think that we need to speak against it everywhere we go.

I'd like to stop here because I know that my time is up. Thank you very much for the opportunity to be here.

Ambassador **Wise.** Well, thank you, Mr. Viveros. I am sure we will be hearing from you later as we move into more of a discussion mode. You've already given some interesting ideas, and I hope we hear some more as the morning progresses.

Our next speaker is Chon Garza. Chon is in parentheses. So if there is another name you can tell us, you can. Mr. Garza is the son of migrant farmworkers who immigrated to the United States in the 1940's. A former farmworker himself, Mr. Garza is now the principal of an elementary school in Rio Grande City, TX, where he attended classes as a child.

He has been an educator for 22 years and has focused on the special needs of migrant children. Mr. Garza.

Mr. Garza. Thank you.

First of all, I want to thank the Commission for allowing me to come here and share some of my experiences and to perhaps have some kind of influence, impact on what's happening to our migrant children.

I know you went around my first name because it is very long and hard to pronounce. Well, don't worry about it. It took me 5 years to learn to pronounce it, another 10 years to learn how to spell it. Chon is short for Encarnacion.

I come from an area in Texas that's highly impacted in many ways not only by a high population of migrant students, but also immigrants that keep coming into our district almost on a daily basis. I know that in our district, which is a small district in the valley with about 7,500 students, we have grown in the last 4 or 5 years an average of about 300 to 350 kids a year, and most of these children are coming across the border, who a high percentage of them become also migrant.

Our school district is 99.9 Hispanic. Our staff is 99.999 Hispanic. We are probably the area in Texas or the state that sends most of the migrant students out to the different states, including to Mr. Viveros' area. So we have the two sites here.

The way I got here is kind of exciting because it was a spinoff of something that has been happening at our school. Our district is situated in a county that's last report was the second poorest county in the nation, and our district has been going through some trying times as far as test scores and just some other practices that the state had been really looking hard at the past few years.

We were under the spotlight for a while, and it looks like we're coming back out. Not too long ago, in the fall, we had a test administered, which is a state test, to different grade levels, and that's really how this--it weighs very heavy in the accreditation and evaluation of school districts. So needless to say, the media was there quickly to see what the scores were, and our campus, the campus that I'm principal at, did exceptionally well, and the reporter who came to do the article was very surprised. Well, she was looking for something negative to keep writing about, but by chance, she found something positive.

Anyway, as a result of that, National Public Radio came down, but the intent there was that they were going to come in and look at the poverty and what it does to the children as far as education is concerned.

They had to do two programs, one on poverty and then one on the school itself, because they found that we were doing a lot of really good things for the children there. So we were real thrilled about that. That was heard nationwide, and Mike called me and said, you know, "We'd like for you to come over and share with us what it is that you're doing and what's working for you." So that's how I got here.

Personal experience, you know, as Mr. Viveros was talking, it kind of looked like my own experience. My parents came to the United States in the late 1940's, and I was a farmworker for a long time, up until I graduated from college. Even after I had a degree, I was still working in the fields looking for a job.

Someone asked me some time back as I was making a presentation how much experience I had in migrant education. I told him 43 years, when I was born. So I've been on both sides of the situation here, not only as a student and then a teacher. I have been a teacher. Then I was a counselor. Now I'm an administrator, and I have also done considerable work in other states. So I have seen what we do in Texas and what other states are doing for our children, specifically in the States of New York, Ohio. I've been in Colorado, and I've done some work in Maine, which is a new frontier for our children.

There's a lot of work to be done, lots of work. The intent, the rationale, the purpose, the commitment is there. However, there is still a lot to do on both sides.

Our school district, and I would think that throughout the valley our dropout rate for migrant students is still very, very, very high. I want to take a guess, but you know, if I look at our district, 50 percent of the children that start as freshmen at the high school do not finish. So that is still pretty high.

Test scores continue to be very poor. However, I've experienced as a principal very positive results. Test scores at our campus have doubled for migrant children in the last two years, and I'll share some practices that we have and why I think it has worked for us.

Education for migrants, I think we're missing the boat somewhere because we're concentrating or we're placing a lot of emphasis on secondary programs for migrant students at both ends, and more so at the receiving end, in California, Washington, New York, Ohio. A lot of emphasis is placed at the secondary level, trying to provide programs that will prevent kids from falling further behind or just help students catch up, and once they fall behind three or four credits, they give up. Most of them give up and drop out.

I think that's where we're missing the boat because we need to put some more emphasis, funding and otherwise, at the elementary level, early childhood. You know, all of us know that prevention is probably less costly than intervention, and I really feel strong about that because our academic programs for the primary and elementary children in early childhood are adequate. I think the need there is for the children to--to provide some programs that will help these children feel good about who they are and where they come from and build up their self-concepts, their self- esteem. I mean if they feel good about themselves, there is no doubt that they will perform really well, and I have seen it. I have experienced it.

In the last 2 years that I have been a principal, our philosophy revolves totally around that concept of making the children feel good about who they are, and I think that we need to train staff. We need to spend some time, put some effort to make our staff, our people who work with these children on a daily basis, sensitive to the needs of the individual children, not just necessarily migrants. I think that migrant students--we are not asking for any special treatment, and I think many times when we give them that special treatment, we just nurture that feeling of negative worth in the children.

We need to just treat them with dignity and respect like we would everybody else. We are just asking for equal treatment, tolerance, opportunity and respect, as Mr. Wise mentioned before.

What is our model and why is it successful at Ringgold Elementary? I was called many, many, many times after the National Public Radio program came on, and I was asked several times if we had anything in writing, if we had our program design in writing, and my answer to that was that, sure, we have the basic curriculum in writing, and we have a basic program that all schools in Texas have. However, what makes it work, I think, could not be put in writing. You know, everything we do is from the heart, and the children respond to that, just like the staff does, too.

So both my assistant principal and myself, the counselor, and about 15 other teachers at our campus are former migrants themselves. So that helps. You know, I was asked how did you manage to recruit all of that staff, and I said, you know, 30 percent of the time chances are that when you recruit somebody, he's a former migrant in that area. So that was not difficult.

We have done some things differently in the past two years. We put every child through a computer lab for about 30, 35 minutes regardless whether they meet the guidelines or not. Maybe I am putting my foot in my mouth here, but we're not leaving any kid out that belongs in that lab. We're just serving everybody, and that has highly impacted not only the test scores or the measurement, but we could throw those out, and you could come into the campus and you'll know that something positive is happening there because the children just seem to turn on to reading, and it's come a long ways as far as performance from the teachers and the kids.

We went to heterogeneous groups totally, from first through fifth. This year there was some minor resistance from staff and parents and even some students. We mixed them all up, gifted, talented, special ed., migrant, limited English, and that has worked very well also because there again we go back to the idea of everybody being treated equally, and the expectations were much higher for the students who had problems in the classroom.

There was a lot of cooperative learning, peer tutoring. Both types of students were feeding or are feeding from each other, and the teacher consequently also has raised her expectations of these students that needed the extra help.

Also the students are speaking more English because they're being exposed and in many ways forced themselves to speak it, too, so that they can communicate. They're playing together. They're going to P.E. together. They're eating together, and you talk about different types of groups. These are kids that are 99.9 Hispanic, and even within the Hispanic population, you have subgroups. So we mix those up, and it has worked real well.

We have gone to team teaching, and one of the things that I think has really made it easy for me as the instructional leader is that we've gone to site-based decision-making. We have empowered our teachers. We involve our staff in major decisions which will affect them and, most of all, the children. So they have ownership. If it works, all of us get the credit. If it doesn't work, all of us get the blame, and that works well for me as a principal.

Let me look at my notes here a little bit.

Some things that we do specifically for migrant children which have great impact? We personally welcome every migrant child that walks onto our campus late in the year, late September, October and November. And by "we" I mean either myself or the assistant principal, and that's a heavy, heavy, heavy, powerful message for the children.

We not only welcome them in. We also walk them to their classroom. We make sure that we assign another student to work them into our school, to follow them around and guide them, and after they are here, they have to leave early, too. So we also personally check them out, say goodbye, and that's very powerful for the children. The message there is that we really take the time to show them that we care. That works real well.

Some of these things don't cost any money. It's inexpensive to do things like this, and it works. It's very successful.

If I were to make some recommendations to the Commission to look at things that will specifically for sure impact how to help the migrant child, I want to say that we need more funding or money, but technology is very expensive. We had some creative ways of scheduling the children into two labs, really three labs, where we have a total of about 60 stations, and some of those computers are obsolete. We are trying to update those, but certainly money is needed, funding needs to be earmarked for specific use in technology.

Probably even much more important, there needs to be intensive training for parents, parenting training, parenting sessions, parenting skills. That certainly needs to be in place, and of course, the other part of that would be the parental involvement with the schools, where administration, school teachers, and the school district needs to make a special effort also to invite these parents.

There are no better advocates for the children than the parents themselves.

And, of course, I think that special training programs for teachers to provide the sensitivity training to be able to understand these invisible children who sometimes as we say fall through the cracks, but those are big cracks. They are such big cracks that children are falling in great numbers.

Those three things, really, if we would really concentrate and put some special effort and emphasis on that, I think that would be just the beginning, and it would make a great impact.

Thank you very much.

Ambassador **Wise.** Thank you, Mr. Garza.

So those are some more ideas that I think will be part of our discussion later, too.

Our next speaker was to have been Delores Huerta, co-founder and First Vice President of the United Farmworkers, AFL-CIO, the largest farmworkers union in the United States, but she hasn't arrived yet, and I'm not sure she will. I hope so, and we'll have her speak later if she does.

I will pass then to Rob Williams, who is an attorney with the Florida Rural Legal Services, Incorporated, and he represents farmworkers in cases involving employment, immigration, other issues.

Mr. Williams.

Mr. **Williams.** Good morning.

Today I wish to discuss how the United States might better live up to its obligations under the Helsinki Accords to provide equality of opportunity in respect of working conditions for lawfully residing and working migrant workers.

First, I'd like to talk about a relatively small set of the farmworker population, the foreign workers who enter the country each year under the H-2A program, and then I'd like to speak more generally about the situation of migrant farmworkers throughout the United States.

About 25,000 jobs are filled each year by H-2 workers in apples, sugar cane, tobacco, and sheep herding in the West. These are true transnational migrants. If there are any workers in the United States who are protected by the Helsinki Accords, these workers are.

And our government, through the Department of Labor, in theory, regulates every aspect of their employment in this country. One would expect that the United States would certainly be in compliance with respect to these workers. However, all too often the Department of Labor has been slow or done little to enforce the laws and regulations meant for their protection.

As an example of the legal barriers to securing equal treatment that are faced by H-2 workers, I want to give the case that rose out of a labor dispute at the Okeelanta Corporation, a large sugar company in South Florida.

In 1986, the workers were very unhappy about their pay. They attempted to protest by staging a work stoppage. The police were called, and K-9 dogs were used to roust the workers from their barracks. Three hundred fifty-three workers were immediately repatriated to their home countries without any hearing or process.

Subsequently, DOL wage and hour investigators found that the workers' hours of work had been seriously underreported and that as much as $1 million in back wages was owed the workers. However, DOL took no action and kept its investigation secret.

In 1989, the Secretary of Labor told the House Education and Labor Committee that no violation had been found. DOL acted only after an investigative report was brought to light by the House Education and Labor Committee.

Six years after the event, DOL began an enforcement action which a DOL Administrative Law Judge recently dismissed as untimely. Thus, our government has totally and utterly failed to protect these workers' rights.

This is not an isolated instance. Two years ago I filed a complaint with DOL which involved a serious violation of an H-2 worker's contract and affected many other workers, as well. Still no action has been taken on that complaint, even though I understand the investigation substantiated the complaint.

DOL has yet to take any enforcement action to recover hundreds of thousands of dollars in unreimbursed transportation expenses charged to these workers, which it has known about since 1989, despite the prompting of both the House Education and Labor Committee and the General Accounting Office.

Where DOL is unwilling or incapable of protecting workers, it becomes all the more important that the workers have access to the courts to redress their grievances. The Migrant and Seasonal Agricultural Workers Protection Act does provide that workers may enforce their working arrangements with their employers. However, H-2A workers are specifically excluded from its protections.

In the case I described at the Okeelanta Corporation, the U.S. District Court subsequently ruled while U.S. workers may have an implied cause of action to enforce the DOL regulations which protect both the H-2A and domestic workers, the H-2A workers had no such remedy and were, thus, relegated to whatever remedies they might have in state court.

To me the treatment of these workers under our laws clearly violates the spirit, if not the letter, of the Helsinki Accords. I have two specific recommendations to make with respect to the H-2A Program.

First, the exclusion of H-2A workers from the Agricultural Worker Protection Act should be removed. H-2A workers should be permitted to enforce their working arrangements on the same terms as other farmworkers.

The AWPA reform bill introduced by Congressman Miller does this.

Second, because H-2A workers' visas only permit them to work for a specific employer for a limited period of time and do not provide for any right to employment in future season, H-2A workers are even more vulnerable to retaliation than other migrant workers.

Currently DOL work regulations prohibit retaliation. For example, a worker cannot be fired in mid-season for making a complaint to the

Department of Labor. However, H-2A workers are universally concerned not just about whether they will keep their job this season, but also whether they will be requested back in future seasons, and at present that decision rests solely with the employer.

U.S. workers, by contrast, at least must always be given preference over H-2A workers and, thus, have a limited right to future employment in the H-2A context.

I believe the DOL could provide by regulation that an H-2A worker who successfully completes the season should be given preference future seasons subject to the job opportunity being available and the absence of qualified U.S. workers.

Eventually Congress may wish to consider giving resident status to H-2A workers who have worked a certain number of years in the United States. The Helsinki Accords state that the participating countries will take effective measures to promote equality of opportunity and adopt appropriate measures that would enable migrant workers to participate in the life of the society of the participating states.

I think Congress sought to do just that when it created the Special Agricultural Worker Program as part of the Immigration Reform and Control Act of 1986, which legalized over one million foreign agricultural workers in the United States.

One group of workers, the H-2A sugar cane cutters, were excluded from the program not by Congress, but by a decision of the Department of Agriculture. Over 8,000 workers who applied under the SAW Program were, thus, deprived of their dream of becoming U.S. residents.

I strongly concur in the recommendation of the Commission on Agricultural Workers that these workers be given resident status.

Turning to the question of the general situation of migrant farmworkers in the United States, I don't think one can overemphasize the findings of the Commission on Agricultural Workers that for many farmworkers in the United States real earnings and working conditions have deteriorated further since the passage of the Immigration Act.

It is time to end the exclusion of farmworkers from the protection of our labor laws. Sometimes, as is the case with collective bargaining and the fundamental right to engage in concerted activity, that exclusion is explicit. In other instances, such as the case of AWPA and the H-2 workers, the exclusion is based on one's immigration status.

Too often the exclusion is created by bureaucratic inaction and indifference. For example, the Occupational Safety and Health Administration. We know that agriculture is one of the most dangerous jobs in the United States. Yet OSHA has made only token efforts to improve farmworkers' safety.

While all other workers currently have a right to information regarding toxic substances in the work place, under OSHA's hazard communications standard, OSHA has ceded jurisdiction over farmworkers in pesticides to the EPA, which thus far has failed to issue final regulations.

Thus, only farmworkers, many of whom are daily exposed to known carcinogens, are denied the right to know what toxic substances are being used where they work.

Where statutory protections do exist, we often have a regulatory structure that seems designed to fail. I think the single greatest barrier to achieving higher labor standards in agriculture is the crew leader system, which in effect creates a giant loophole in every protective statute.

For example, we know there's rampant underreporting of wages for purposes of social security and unemployment taxes, which puts thousands of migrants and their families in economic jeopardy. Agricultural employers are three times more likely not to pay or to underreport those taxes than other employers.

Yet we persist in our tax laws in treating the crew members as the crew leader's employees unless there's a written agreement designating the crew members as the employee of the grower. Predictably, tracking down delinquent crew leaders has proved to be a hopeless task.

It is true that farmworkers have some protections under the Agricultural Worker Protection Act that are not available to other workers in the United States. Unfortunately, that Act has never been fully or effectively enforced, nor will it be until the Department of Labor shifts its enforcement strategy from the much maligned farm labor contractor to the agricultural employers who utilize their services.

I believe the past 20 years have abundantly demonstrated the futility of attempting to secure basic job rights for farmworkers by regulating the activities of thousands of individuals who in most cases are poorly educated, ill informed about their responsibilities, and financially irresponsible.

In Florida, there are nearly 5,000 labor contractors with a 20 percent turnover every year. It is totally unrealistic to think that revoking 20 or so licenses a year has any effect on a system when, at the same time, 1,000 new contractors are entering the labor market.

In order to change a culture which seeks to put the blame for every problem on the crew leader, I think any change in our policy must send a clear message that the grower is now to be held accountable. For this reason, I fully support the approach taken in the Miller bill, which proposes to hold growers strictly responsible for the actions of their labor contractors.

Our goal here is not more fines or regulation or litigation, but a fundamental change in behavior. We want agricultural employers to take responsibility for the day-to-day management of their work force away from the crew leaders, the majordomos, the contractistas, and to see themselves, not the crew leaders, as primarily responsible for insuring that their workers receive all of the protections and benefits mandated by law.

There are some farms that do this now. It does work. It's not something that is theoretical or is untried. We do have growers in Florida that do just that, and we don't see the problems at those operations that we see throughout so much of the rest of the system.

The present approach, based on the joint employer concept, does not go far enough. The use of labor contractors is becoming more, not less, frequent, and that's why I think we need a clear statement of national policy.

If we could close this crew leader loophole, I think we will have taken a major step towards securing equal employment rights for this nation's farmworkers.

Thank you.

Ambassador **Wise.** Thank you, Mr. Williams. That gives us certainly another perspective, a useful one, to our discussion.

Our next speaker is Sharon Hughes, who is Executive Vice President of the National Council of Agricultural Employers in Washington, D.C., the only national agricultural trade association dealing exclusively with labor issues.

Previously she served as manager of government relations at the Synthetic, Organic, Chemical Manufacturers Association.

Ms. Hughes.

Ms. **Hughes.** I appreciate this opportunity to testify here today on behalf of the National Council of Ag. Employers. I understand that I am the only grower representative that has appeared before the Commission, and I'm glad to have this opportunity.

I am proud that I've been invited since I believe that there is a good story that the growers have to tell, and I want the Commission to be able to hear both sides of the issue.

Due to scheduling problems, I am sorry I was unable to prepare a formal statement, but I will be providing one to the Commission shortly.

The National Council represents growers involved in labor intensive agriculture across the United States. We estimate that the member grower companies employ about 75 percent of the farm work force that's out there.

Agricultural employers, therefore, are very concerned about the conditions of farmworkers. And, we commend the Commission for exploring this issue and look forward to working with the Commission in developing recommendations for further improvements.

Growers and agricultural associations have a history of working with federal, state and local bodies to develop programs and laws that both protect and serve the agricultural workers. NCAE worked hand in hand, for instance, with members of Congress, farmworker advocates, and the Reagan administration to gain passage of the Migrant and Seasonal Agricultural Worker Protection Act.

The Council worked in good faith with EPA during its development of the worker protection standards for pesticides, which is final and in effect, and is now working with their focus groups to develop implementation plans and training modules.

The Council also was active during the passage of the Immigration Reform and Control Act, and currently is working with the Department of

Justice's Office of Special Counsel for Immigration Related Unfair Employment Practices under an educational grant to go across the country and educate the growers on what their responsibilities are under the anti-discrimination provisions of IRCA.

The Council has supported full funding of the migrant education and migrant Headstart Programs, and a number of our member companies are working with these programs to set up educational efforts and day care centers.

We also have member companies working with migrant health programs to set up health care clinics, such as the one in Winchester, Virginia.

I would now like to present a short video which shows the strides which growers have made in Florida to better the conditions for farmworkers.

[Whereupon, a video was shown. Transcript in appendix 5.]

Ms. **Hughes.** Obviously this video shows conditions in Florida, and similar conditions and programs appear in places such as California, with other states slowly following their leads. But while conditions are improving through grower and migrant program efforts, we are only treating the symptoms of the core problem.

To get at the core problem we must have improved job placement across state lines in order to afford workers longer and more stable employment.

We can continue to improve migrant services.

We need to improve data collection so that at the Federal level we'll be able to properly direct funds and enforcement efforts.

We need to educate all growers on what their responsibilities are under the laws and regulations currently in place. And, we need to end the adversarial relationship between farmworker advocates and employers.

But all of these things will not bring stability and appreciable change to farmworkers until we begin to better match jobs with workers through an effective Federal employment service.

I want to thank you again for allowing me this time to appear here this morning.

Ambassador **Wise.** Well, thank you very much, Ms. Hughes. As you mentioned earlier, this is the first time that you or anyone from your organization has been here, and we welcome the new perspective and the new vision that we saw on the screen. I'm sure it will be discussed later as well.

Before introducing the next speaker, I would like to introduce two other members of the Helsinki Commission staff. Mike Amitay over here, who many of you may know, has been responsible for organizing our briefings and is the primary one at the Commission who follows this question, and he is going to be the one also who is going to prepare the report which he has, I think, promised in my remarks will be ready this month or next month?

Mr. **Amitay.** As soon as possible.

[Laughter.]

Ambassador **Wise.** A good Government phrase.

And Jane Fisher, who is our Deputy Staff Director and who will be taking my place here for the remainder of the discussion.

Our next and last speaker today is Ms. Gloria Hernandez, who was a former farmworker and is presently a community worker for the California Rural Legal Assistance Migrant Farmworker Project in Fresno, CA. She is a volunteer with the El Concilio Immigration Project, assisting seasonal workers with immigration procedures.

Ms. Hernandez.

Ms. **Hernandez.** As you can see, I have no social life.

I am Gloria Hernandez. I'm 38 years old, have been advocating for farmworkers since I was about 16 years old. I have a daughter. She's bilingual, bi-cultural, and she is slowly learning to advocate also.

I'm real honored to be here. I was telling Arcadio on the way up I'm the only one that doesn't have a title here. I'm not a CEO or anything like that, but I'm honored to be here because I think I am not like a real good speaker, but I draw pictures very well, and that's what I'm going to try to do today, draw pictures for you.

This video actually drew a lot of pictures in my mind that are like fantasies. I don't see that in California, and I'm real shocked, and I just pray that one of these days that will happen in California.

I'm here to talk about community empowerment. Under the LSC regulations, you should be aware that I am not allowed to do community organizing. I'm not allowed to do a lot of stuff that I do on my own time.

As a community worker, I work not only as a paralegal, process server, investigator. You name it; I do it. But I also do a lot of volunteer on the side, and under the California IOLTA funding, I'm able to do a lot more stuff for people.

Another thing the LSC regulations doesn't allow me to do is to represent undocumented people. So I'm able to do that also under IOLTA in California, and I also do it as a volunteer. I just want to clear the air here so that people understand that I hold many hats, and because I hold many hats, I'm able to do a lot of things. I'm able to help a lot of farmworkers.

To me a community is anything from a town, like Parlier. I'm a product of Parlier, by the way, but it's also a case that involves 300, 400 men that take on the grower because the housing conditions are so bad. They have no toilet. They can't take breaks. They're entitled to 20 minutes a day, work 10 hours, sometimes up to 14 hours during the week; do receive no overtime.

We go in there because we're called. I don't need to be looking for cases. I have an 800 phone number that works statewide. They call me. I go there, and I look at the conditions, and I'm amazed that here we are in 1992, 1993, and these things are still happening. I'm amazed.

I remember seeing the Harvest of Shame. I was the young kid. I was living that, and I'm amazed that it's still happening.

I'm amazed that in November 5, 1992, the border patrol, along with the Farmersville local police department, had the audacity to go in at five o'clock in the morning to people's houses, not even knocking on the door, and dragging people out; going into people's houses that the Farmersville police supposedly thought were undocumented.

In one case, they knocked on the door. It had a chain. The man opened the door. He forgot the chain. So he pushed it back so that he could open the chain. The cop didn't wait long enough. He went in through the bottom of the door and told the old man (speaking in Spanish), "Throw yourself on the ground," and he pulled out his gun, and then he asked the man for his document.

And the old man turns around, and he goes, "Is that all you want? You should have asked me. I'm not a delinquent for you to treat me this way."

And that's the attitude of the community in Farmersville. They're not going to take it anymore. They took it to the street. They had a walk. They were going to tell the people that they were dissatisfied that the Farmersville people could not protect and serve their community.

What happened the next day when they took it to the street? They got attacked by the local police, the SWAT, the Sheriff, everybody. People got arrested for inciting riots.

But what was born there was a committee of immigrants who were not affected by the raid and who were not arrested and who did not participate in the demonstration, but they started this dialogue with this Farmersville Human Relations Commission, and I've spent hours and hours translating stuff for them because the Human Relations Commission never even thought of providing an interpreter so that the dialogue could continue.

I spent hours translating what the Human Relations Commission's obligations were into Spanish so that the "campesinos" would be able to know who they were dealing with.

On Monday of this week, the "campesinos" decided to walk out because the Human Relations Commission could not understand how the "campesinos" felt, that the local police were going to be allowed to continue to do investigation along with the border patrol.

When asked why the word "investigation," why don't you just call them raids, one of the Commissioners responded, "It's a personal choice of words."

I'm just the interpreter when Senior Ramos gets up and says, you know (speaking in Spanish), "That's enough. We're walking out." Now we've got to regroup. We've got to think what we've got to do now, and it's really amazing to me because to me empowerment of the community, even though it was seven or eight people, were going to report back to a community of almost 600 "mixtecos," "campesinos."

To me it was having the patience to deal with the Human Relations Commission. That to me was empowerment because I remember when the early 1960's, I went to jail a lot of times on First Amendment. The anger, I was young; I was angry. Now, I have a lot of patience. I'm able to share a lot of patience with the people. I'm able to translate and explain to them how the system works.

And once they know how the system works, they themselves will work with the system if they're given an opportunity. But how can you have an opportunity to participate if you have no interpreter? You have no language skills to understand.

You know, this IRCA thing people talked about; you have to have 40 hours so that you can eventually become a citizen. You have to speak English. The newscasts are in Spanish. There's magazines in Spanish.

People are aware of what's going on. People know who Clinton is. People know who the border patrol are. They know what the Declaration of Independence says. They know what the Constitution says.

But people have this expectation that if you don't speak English, you don't look white, you're not entitled to the Constitution, and that's what we're fighting for in Farmersville.

Kettleman City, a little community of 5,000, most "Raza," farmworkers. I remember going there in '79 doing outreach, talking about minimum wage, you know, the same old thing, and I asked them, "Well, how come there's a lot of trucks going up there?"

And they told me, "Oh, they mine gold."

And I go, "What?" So I arranged a field trip on a Sunday. I told the manager of the waste lands that these people were coming in from L.A., and they wanted to see the rural areas and all of this bull shit, and we ended up going inside, and I translate for them.

Now, the first thing was, "If you're pregnant, go home. If you've got high blood pressure, go home."

Farmworkers kept saying, "What's going on?"

I go, "Well, let's find out." We get on this little van, and we go into the waste land of Kettleman City, a toxic dump. They are literally building plateaus of toxics. What they do is they ship all this toxic waste to Kettleman City from all over the United States, 50 gallon tanks. They bury them, level, then they put so much clay, and then they bury more and then more.

I mean there's literally hills being built. They have ponds they call evaporation ponds where they put all of the stuff that's able to evaporate and go into the air, of course.

Well, after the field trip the "campesinos" knew that they weren't mining gold, and they said, "What can we do to stop it? How can we get them out of our town?"

I said, "You can't. They've got the paper work in order." I said, "But one day they're going to want to expand. They're going to want to do something. Keep your eyes open, but remember when there's public notices, they're only put in the newspaper, the English newspapers, and they're in English."

But luckily somebody remembered what I had told them. So when the Kettleman City waste lands wanted to put up an incinerator, the people remembered, and they contacted us. Now we have a couple of lawsuits going on, and we've stopped that incinerator.

And the people have also gotten into Button Willow. They've even crossed borders and are going into the Tijuana to stop the incinerator over there. Green Peace came in. I mean it's exciting that this little seed was planted back in 1979. They understood. Just a simple little knowledge, and they took it upon themselves, and they've gone and they've run with it.

Another example when we talk about farmworkers, let me give you an idea. This Tuesday 14 farmworkers came in. I'm going, "Oh, man, the season's on already." And I go, "So what happened?"

They go, "Oh, we're working for so-and- so," this famous grower in Fresno who happened to be president of the Farm Bureau a couple of years ago.

And I said, "So what's the problem?"

They said, "Well, we live there. We pay $18 a week for housing. We pay $3 a day for the ride in, transportation."

And I go, "So what's the problem?"

"Well, they're not hiring us. They're bringing in people from outside." So then I go into this whole spiel how, you know, in the United States there's no seniority. Unless you have a contract with your "patron" or the "patron" has a personnel policy, no seniority, not like in Mexico.

So I said, "Does the 'patron' know what's going on?" Because it was the majordomo that was doing this thing and changing.

He goes, "No. So-and-so, the boss, is in Oregon on vacation."

And I said, "Well, maybe you should talk to the boss's son and see if the boss's son feels comfortable about what the majordomo is doing."

They said, "No, he'll fire us."

And I'm sitting there, and I'm saying, "But, Raza, you're not even hired. How can you be fired?" But they've got them so intimidated that it angers me.

Another example, simple knowledge. To me empowerment is simple knowledge. The crew comes in. This was last year during the summer. It was apricots. About 25 of them come in, in from the field. I'm going, "What happened?" I took them all in my conference room, and I let them all tell me everything, and then I finally get it together, and I go, "OK. This is what I understand you're telling me. You're telling me that you're picking apricots. You more or less work for this grower 5, even 9 years. You ask the grower for five cents more an hour. They pay you 4.25, and that the grower got mad, and you just continued working, and the grower got so mad he started getting apricots and throwing them at you and telling you to hurry up because it was real hot, and the apricots were freshening, rotting."

And one of the men said, "No more. You're not going to hit me with that apricot no more." He got his suspenders because they carry the budget in front of them, threw it down and walked out, and stood outside on the road. And all the other men followed him.

I go, "That is concerted activity. That is covered under the Agriculture Labor Relations Board Act. You can file an unfair labor practice."

And they said, "Well, what's going to happen?"

And I said, "Well, you know how the bureaucracy is. You go through an ALJ. The ALRB will investigate it, finally go to a hearing, and then maybe you'll get to the Board, and then maybe there'll be an appeal, and then maybe in ten years from now you'll have justice." And I said, "Or you can go work for another 'patron.'"

And they go, "What would you do?"

I said, "I think I would go back and talk to the 'patron' and say, 'You've got a crop to pick. I'm willing to work. Let's talk.'"

"But, no, the 'patron' is real mean."

And I said, "So is there someone there you can talk with?"

He goes, "The mother of the 'patron.'"

Mother, right? So I encouraged them to go back and talk to the mother, but I also made arrangements for them to talk to the ALRB staff, and then I write them a letter, you know, cover your back. You've got 6 months to file. I told you this. Let me know what happens.

Well, one of them calls me, and he said, "You know, we went back and we talked to the mother, and the mother agreed to give us a nickel more an hour, and she also told her son not to be out in the fields hitting us with apricots."

So that case was solved. Simple knowledge, but then there's other ones that even though I tell them what their rights are and we go through the process, it doesn't happen. Let me give you an example.

In 1989, talking about "contractistas," and I can relate to what Rob is saying; in 1989, I got a call from Pajaro. Pajaro is a foreman with mixtecos. Indigenous farmworkers are coming more and more into the valley, and he tells me that they have gone to the Labor Commissioner for eight days now, and they had not gotten any response, and so I said, "What's the trip?"

He said, "Well, we worked for this 'contractista.' Her name is Marizela Gamino.'" G-a-m-i-n-o. I want to make sure you all know her, "and she didn't pay us."

And I go, "How long has it been?"

He goes, "20 days. Labor Commissioner has had the case eight days. Nothing's happened."

So I go, "OK. Bring me the addresses and phone numbers of the 'patrons' where you worked out," not the "contractista" because the "contractista" is obviously ignoring them, right? So then I send one of the attorneys to go talk to the "patroness," and the "patroness" said, "We have already paid the 'contractista.' We don't know what's going on. These farmworkers keep coming back to our house."

I kept calling the "contractista," and I'm saying, "Look. Pay these people."

She wouldn't return my call. So I called the Labor Commissioner. I got Pajaro to go back to the Labor Commissioner, get me copies of the wage claims. I set up all night calculating the wage claims. It came out to $23,000. This is about 120 workers, less the helpers, which are the family, the kids and the wife.

So then I set the clock for 4 o'clock in the morning, and I called the "contractista," and she answered. I asked for work. So, of course, she needs workers, right? She's burned all of these other people, and so she answers the phone, and then I talk to her, and I said, "I want you at 5 o'clock at the park derm, and I want you to bring the money."

She goes, "You're not going to tell me what to do."

And I go, "We'll see." I faxed a memo to the Labor Commissioner. I insisted that one of the Labor Commissioner's deputies be present. She shows up. There's 300 people at this little park. They're all Mixtecos. She shows up. The first thing she does is pushes me, tells me who in the hell do I think I am trying to help this bunch of animals, and I said, "Look. We'll deal with it afterward. You pay them."

She goes, "I'm not going to pay them. The Labor Commissioner is helping me."

And I go, "Well, that's funny. He's right here."

So she starts paying. She started paying at five. She was still there at 12 midnight paying. She would pay in cash. She would pay by check. She wouldn't pay some because they didn't have papers, and I said, "You're going to pay them. Because you worked them, you pay them."

She goes, "I'll report you to INS."

"Fine. I didn't hire them, but you're going to pay them." She paid $18,000 out of the 23. So we took her to the Labor Commissioner, filed a wage claim, held a hearing a year later, 1990. The farmworkers are back in the area. We go to hearing. We lose.

I don't know why we lost. I still don't understand why we lost. Took it to court. She filed bankruptcy. 1992, I'm out going to a labor camp down in Kerman, CA. "Mixtecos" are calling me, telling me that the Sheriff is trying to evict them, but so I took a letter telling them the sheriff, "Hey, man, you're violating their due process," and so forth.

On the way back from the labor camp, I run into this car accident. It's a farmlabor van situation. The van was going this way. This woman decides to cut a U-turn in front of the van. The van spills all of these farmworkers out. I pull over, and I said, "How can I help you? Start giving first aid, start interpreting for the CHP, start interpreting for the medical units?" There were four ambulances.

And I started saying, "Well, who are you working for?"

"Marizela Gamino. She hasn't paid us in four months. We're living in her mobile home."

Marizela Gamino continues to function as a contractor. She has a license. I've asked the Labor Commissioner, "Pull her license." I've asked

DOL, "Pull her license." They cannot discriminate against somebody who's filed bankruptcy.

What I can't understand is why she's allowed to steal labor because that's what she's doing. She's not only housing them in substandard conditions. She's stealing their labor, their sweat, their tears, their hunger, and she's allowed to continue.

If there were strict liability in California, maybe there'd be some justice. You know, growers aren't going to take responsibility for the "contractistas." They're not going to take responsibility for the foremen. They pretend those injustices don't happen.

Even if you were to tell the workers, "Go talk to the 'patron,'" the "patron" would say, "Hey, it's out of my hands. It's a contract."

When's it going to stop? I've been doing this 20 years. I was around in the peak of the union organizing. I used to work under a union contract. I used to earn 3.75 an hour way back in 1972. I had a great boss. He didn't believe in pesticides. He made sure we had our breaks. He made sure the toilets were clean.

You know, I remember having to testify before the federal OSHA when they were setting the toilet standards, and I remember shocking the hell out of them when I said, "You don't know what it's like to be working out there on your period, being stained and nowhere to change."

And they looked at me, and they go, "Oh, do you hear what she's saying?"

But that's the reality of it. The self-esteem of a teenager working out there is horrible. I can complain and complain and complain, but I don't want to do that. I want to make recommendations.

I want to recommend that the Legal Services Corporation become a little sensitive to people and realize that as much as I do as my eight to five job as a paralegal, that's not enough. It's not going to correct the problem. It's my grassroots organizing after five o'clock that's organized, that's helping the people, helping the community.

I want schools without walls. I want to take a young college student and teach him what I know because what's going to happen when I die?

I want enforcement of labor laws. It's real funny. Once DOL found out I was coming up here, they called me and they said, "Oh, Gloria, we heard you're going to Washington."

And I go, "Yeah, I'm going to talk about you guys."

But he told me to make sure to mention to you guys, and I'll do my duty, that he wants civil penalties to go back to farmworkers instead of going to the general deficit, farmworkers are actually supporting the deficit because every time civil penalties are paid by "rancheros" to DOL, they go to the deficit. They don't go to DOL. They don't go to the farmworkers.

For example, that camp that I went to in Kerman, those people got evicted. The camp got shut down. Those people haven't gotten paid yet. They didn't even get relocation costs. So he's saying, you know, make sure you mention that we would like civil penalties to go back to the workers, and I second the motion.

Sensitivity training. Farmersville right now is going through heart attacks because the "comite" is forcing the cops to have culture sensitivity training. It's costing them $2,000, and they think that's a headache, but I think it's important.

I think sensitivity training for farmworker programs, for "rancheros." The biggest thing that "rancheros" are always saying, "Well, they live like that in Mexico."

I don't give a shit what happens in Mexico, honey. The laws are here, and just because they do it in Mexico does not mean you can justify it here.

Sensitivity training for law enforcement, both the MIGRA--we've had killings in our area. Every time they kill somebody they promote and transfer the agent.

Reporters. There was an article in the Fresno Bee in Sunday's payer, and the guy's usually a good writer, and he was writing about these three young men that were brought up by "coyotes" to Fresno, and the people didn't have the money to pay the "coyotes." So the "coyotes" took off with the three young men, and they had an accident, and all six died. You know, he wrote this real great article about how it's like this, the grief and all of that, and then he went on and said, "Oh, they're drunks, and they're dirty."

See, was that necessary? Was that really necessary? I mean we're talking about the situation of the "coyotes," and here you go off, and I go, "Hey, I'd get drunk if my kid was killed." But I think we need to sensitize reporters. I think we need to sensitize the researchers.

Prior to 1986, there had not been that much research done on farmworkers. After IRCA, then there was all this money. All of these researchers came around and did their research, and some of them are still very insensitive researchers.

I really would like to see strict liability. I want growers, corporations to be responsible. I want Dole Company to provide housing instead of a parking lot with portable toilets. I mean if they're going to provide housing, I think farmworkers are willing to pay for the housing, but make it decent.

My fantasy is a Winnebego for every farmworker with a laptop for the children, a smile, and a word of kindness to farmworkers.

Thank you.

[Applause.]

Ms. **Fisher.** [presiding] Thank you very much for those very eloquent remarks.

We'll open the floor up now to questions, and I hope that we can build on what Ms. Hernandez ended her remarks with: getting on to recommendations and solutions. Let's try and find how we can develop as a norm the kinds of positive things growers are doing in the film that Ms. Hughes showed. Let's find out how we can spread that across the country.

We have people on this panel today who have been migrant workers and are now principals of their school and mayor of their cities, and these are people who can help us understand the kinds of things that we need to be addressing and the work that we have ahead of us.

So any questions?

Ms. **Rottenberg.** My name is Lori Rottenberg, and I'm with the Association of Farmworker Opportunity Programs. I have a question for Ms. Hughes, and I think that it's great that you're here to talk with us.

About the film, in the opening part it said that farmers, growers are covered to the same extent as in other industries under the Fair Labor Standards Act, and I wanted to know if you thought that was an accurate statement.

Ms. **Hughes.** What they said is that they were regulated as other industries. Basically what--I caught that also. I know that there are exemptions under the Fair Labor Standards Act for small farms, and so forth.

What they meant was that there are also exemptions for other industries, as well as agriculture, and since those exemptions are in place for other industries, that's why they went ahead and said it like that, I guess, for expediency sake. But the small farmer exemption actually is less than the exemption that other small businesses have amusement parks, gas stations, auto dealers, restaurants and things of that nature. They also have exemptions, and that's why.

Ms. **Mull.** Sorry, Sharon, but you're getting hit with the Association of Farmworker Opportunity Programs. My name is Diane Mull.

I was very interested to hear the recommendations. I hope that in the future we'll see every industry have the types of management practices and fringe benefits that we saw. I think there's a lot of inconsistency, and I'm hopeful that some day we can achieve what we saw on the video that's happening in parts of Florida, and that we will see that across the board.

But I wanted to touch on some of the recommendations because I was very pleased to hear of your four recommendations. I am not at all opposed--our association represents farmworker employment and training agencies who also operate Headstart, health centers, housing programs.

Improved job placement across state lines to better match jobs and placements in agriculture so that we can achieve fuller employment for farmworkers is a great recommendation and something that is desperately needed. I'm not sure that the employment service will ever be able to achieve that.

I would be very interested following my comments for your suggestions of ideas. We've always thought that with the Job Training Partnership Act, Title IV, Section 402, if we were ever able to apply the placement activities that we do for farmworkers moving out of agriculture to that within agriculture, then farmworkers may be able to achieve that, but right now we're limited from being able to do those types of services.

The second was improving data collection. I think that's been one of the major problems that we've know, is knowing who farmworkers are, where they are. I mean we intuitively, who work with farmworkers, feel we have a good command of knowledge about farmworkers, but we can never or never have been able to achieve an accurate count.

The Census Bureau, it's estimated that in 1980 as much as two-thirds of farmworkers were not counted. In 1990 census, it's estimated as many as 75 percent to 80 percent of farmworkers will not be reflected within the census, and changes are needed.

Educating growers regarding the laws and regulations is necessary. I would like to add to that perhaps effective, modern labor-management practices.

And I think that ending the adversarial relationship between farmworker advocates and growers is desperately needed. I think that we still as farmworker advocates will continue to advocate on behalf of farmworkers, and we'll need to do that, but that there are ways that we can come down and sit down at the table and talk about constructive ways of bringing about change, and I'm very happy to hear you say that and would like your ideas of ways in which we could approach those.

Ms. **Fisher.** I'd like to also ask the panel to comment on this last point, if I may. If you could sort of give us your thoughts on how we can start bridging the differences between the two groups.

Mr. **Williams.** Well, I would like to say a point first about the problem of matching jobs. I don't think there's a problem with job placement for farmworkers. There's a problem because we have a large surplus of farm labor in the country, and we have more people than there are jobs.

I mean if we looked at this room and we split these chairs here, and we play a game of musical chairs and we have a lot more people than there are chairs here, it doesn't matter what placement system we have. At the end of the game, there's going to be a lot of people left out, and that's the problem we have now.

It's not that we need the government to place farmworkers better. We need better wages and working conditions for farmworkers throughout the United States.

I've heard this suggested over and over again. It's sort of a siren call, that there's a win-win situation out there; that we can make the farmworker's life better without putting any additional cost or burden on agriculture; that the problem is a placement problem; and that the growers don't have to do anything to upgrade the wages and working conditions. They don't have to offer the better benefits, but we can raise the living standard for farmworkers in the United States through better placement.

I don't think that's so, and even if it were so, you know, I think that our experience over a long period of time has shown that the employment service is incapable of providing that function. Last year, Florida, which has one of the most migrant populations in the country, in the entire State of Florida, only 14 farmworkers were placed in jobs outside the state by the agricultural recruitment system run by the Department of Labor, and most of those were fired as soon as they got there because they were jobs for H-2 workers.

One of our problems is we have a phoney agricultural recruitment system, and it lists thousands of jobs as being available, but they are not jobs that are accessible to U.S. workers. They're jobs that are being offered by H-2 employers who don't really want U.S. workers to appear at their doorstep because they've already gone to the trouble and expense of making arrangements to hire a foreign work force.

Now, on the question of the adversarial relationship, you know, I did want to mention in my remarks that one area where we've made a lot of progress, and I feel very good about it, with the largest H-2 employer in the United States, which is the United States Sugar Corporation, and one of the largest agricultural employers in Florida, and last year we reached sort of a comprehensive settlement of our differences with them, and we have a new pay system there, and the pay system is working fine, and we've moved on. We're talking now about setting up a dispute resolution system, and we've asked former Secretary of Labor, John Dunlop, to help us in mediating future disputes.

And I think that's one, you know, and I certainly endorse those kinds of arrangements, but the fact remains that if you're advocating for the farmworker interest, I think you have to be asking for better wages and working conditions, and that will always put you in an adversarial relationship with the agricultural industry.

Ms. **Hernandez.** Yeah, I wanted to address the job match situation. Senator Vuicha from California and I had this discussion many times about the EDD. That's the equivalent of the California Employment Development Department job match program. It seems to me that the reason it doesn't work is because why do you need it? You've got the "contractistas."

They don't even advertise anymore with EDD. They just put out the order, and everybody goes to the "contractista." The "contractista" advertises on the radio.

Look what happened with the apple case. So I think if you, again, put responsibility on the grower, EDD might be able to work a little bit better also.

The grower-advocate relationship. Last summer I was in a deposition. This grower got up and said, "You and your XX workers are XX, those dogs out there." I don't know what's going to happen. I know I can sit down with a grower now on several stuff, and we can talk. We can even share jokes. He'll refer clients to me.

There are some growers that aren't going to change. You know, I wish that they would understand that I'm just doing my job, and the only reason I'm working is because they're providing me a job. If they behaved, I wouldn't have a job. I'd get rich and get married and go live somewhere else.

Ms. Fisher. Can we give Ms. Hughes a chance, too, and then we'll go to you.

Ms. Hughes. As far as the job placements, I realize there's a lot of migrant workers out there. I also realize that about half of those migrant workers are casual workers that only work in the industry an average of nine days out of the year, and they're primarily housewives and students, such as myself when I was a high school student, and I worked in the fields.

But the other half do need to have a way of having jobs where there are good benefits, where there are good facilities, being able to match those workers to the good employers so that they can have something that's more consistent to a year- round opportunity.

A. Duda & Sons, for instance, who just won the Optima Award from the Personnel Journal for their programs, which a lot of their programs were the ones depicted in the film, have a program. Well, it's not really a program. What they have done is they have introduced their crew leaders to growers that they know in the Virginia area who are good providers and have good, decent facilities and such, and now those workers, those seasonal workers can go from Florida up to Virginia and back again, and have more consistent year-round employment.

Also, it increases their benefits. It gives them better housing, and that's the type of match that I'm referring to. It's matching the seasonal workers who want to have full time employment with the good growers in various regions so that they can go across those state lines.

I know that the employment service right now is awful. There's only about 25 percent of the employers that even use the employment service to register jobs, which is down considerably from the way it was 30 years ago primarily because the employment service no longer really places the workers with the employers. So they don't bother using it. They know it isn't effective.

Now, I know some growers have wanted 402 programs to help them with the placement of the farmworkers and realize that that's not allowed in the 402 program. So I guess that's why I was trying to say make this program more effective, but they definitely would welcome the 402's becoming more involved in that arena in order to match the workers up.

As far as an adversarial relationship goes, I think actually at the local level and maybe even at the state level it's not as bad because the growers can get to meet the people in the migrant programs and the Headstart programs and the educational programs and the health facilities on a one-to-one basis and alleviate the fears between them.

But when it gets up to the national level it becomes a lot of rhetoric, and because of the lack of data, again, there's no statistics to prove either side's point of view. So you can say basically anything you want, and we need to have that data to show what the actualities are out there, to know the numbers, and to be able to direct the funds.

Ms. Fisher. Thank you.

Mr. Mayor.

Mr. Viveros. I'd like to talk about the collaborative efforts that could be done with farmers. I think to a certain extent national farmer associations sometimes promulgates antagonistic attitudes that they pass on to the local level, and so nothing is done in terms of working with community health centers, working with cities, or working with other advocate groups.

In one case in point, I went to the Farm Bureau Federation local office in Fresno, CA, to get backing to a program that we want to establish nationwide, and that's the food and vegetable share program. A lot of the fruits and vegetables are thrown in the fields. They're disked, and food is wasted. We wanted to distribute this food throughout the United States.

And we said, you know, this would be a good opportunity for the ag. industry to really get something good on a national basis. We have farmers and packers willing to give us tons of food. Could you help us get this cleared through agricultural inspections so that we can get these fruits and vegetables to all parts of the United States, and it will require your cooperation because with the Farm Bureau's backing, we can open a lot of doors in terms of the U.S. Department of Agriculture, as well as the California Agricultural Department, so that we can transport food from state to state because there's a lot of regulations regarding transportation of food.

I mean they took about three years. They basically never responded, but recently we've been sort of meeting together around another issue that affects the farmer's pocket, and that is the work injury. As you know agriculture has one of the highest work injury incidence of any industry, and so we've been talking about AGSAFE, Agriculture Safe. It's an organization we created, and we invited them to participate and said, "Look. If we can reduce the number of work injuries in the fields, in the farm, you don't have to pay this huge insurance premiums in the workmen's compensation system."

They're participating because they have a vested interest in reducing cost of operation, and so I think that sometimes whatever devices we create to get them to the table and talk, like we're talking here, face to face, the interest that we have is having a healthy worker. The healthy worker will basically work for you and be most productive. If the worker is not healthy, then he's not going to be productive as you would want him or her to be.

So why can't you sit down with us and let's talk about all this that is going on in your farm, and let's see how working together farmer and health provider; we can help each other.

And so recently, two weeks ago, I signed up two major employers in the west side of Fresno County for us to be their exclusive health provider for their workers. We've got 600 employees now signed up. So there's really opportunities out there for us to work together.

Unfortunately sometimes the message doesn't get to the local level for those leaders and those ag. industry organizations that they need to work together. Maybe the national organizations can tell their local chapters, "Listen. It's to your benefit to work with all of these advocates because these advocates can help you educate the workers about how to be more careful, and to protect themselves from getting into accidents in the fields."

So that's something that we're working on.

Ms. **Fisher.** Thank you.

If I could just give Mr. Garza a chance to respond, then we'll take your questions.

Mr. **Garza.** Just an observation that I think that we wouldn't be talking about all of these problems if we would really take care of the children at school, you know, if we would help them get out of this vicious cycle, and you know, we need to speed up the process.

Very few break the cycle within the first generation. You know, I think Arcadio and I are exceptions rather than the rule, and if we speed it up, we wouldn't be worrying too much about these other issues.

Ms. **Fisher.** Thank you.

Mr. **Goldstein.** I'm Bruce Goldstein. I'm an attorney with the Farmworker Justice Fund.

I feel I have to say that the reality that Ms. Hughes portrayed in the video is really a false one, and I think that there are so many falsehoods about the facts and about the legal status of farmworkers, both what was said in the video and here, that it makes it obvious why there is going to continue to be an adversarial relationship.

I think that there's some ways of solving those problems, and I think a large part of the reason for this marked adversarial relationship is the failure of the federal government and the states. The federal government's refusal to enforce the laws on a daily basis that affect farmworkers has just emboldened many employers to consistently violate the law in the most egregious way as possible, and it has also emboldened employers to believe that they can continue to gain special benefits that no other employers get.

It's not true that a Fair Labor Standards Act and Worker's Compensation and Unemployment Compensation treat farmworkers like other workers. That's just blatantly false, and these employers, many of whom are very active in their national associations, are convinced that they can get away with murder, and there has to be an across-the-board recommendation that the United States government will take an active role in enforcing farmworker protective statutes.

Once there is the message out in the agricultural employer community, like there is in other employer communities, that the laws are really going to be enforced or at least there's a threat that they're likely to be really enforced, a lot of employers will be deterred from violating the law. This is particularly true for large employers because they're easier targets.

A. Duda & Sons was mentioned, and in some sense they're a model employer. In no way are they representative of employers in agriculture in this country, but they and others like United States Sugar Corporation have taken upon themselves to improve conditions, in part, because they recognize that as they got larger, they were easier targets.

Well, these other, smaller employers and medium sized employers need to understand that there is a credible threat that when they violate the law, they are going to be punished severely. Once they know that, they are likely to change.

In addition, once the larger employers know that they are going to be hit, they tend to want to police the smaller employers because they don't want to pay higher labor costs than the smaller employers do.

So I would hope that the Helsinki Commission recommendations would include a powerful statement on the need for all the agencies involved in regulating migrant farmworkers to take a very active enforcement role.

Finally, I just have to tell you that I found it really ironic to watch the video trying to portray the Harvest of Shame as being an anachronism now. A year and a half or 2 years ago I watched a video of a 1987 TV series that was done locally in the District of Columbia, and the reporter had done five days' worth of reports on the migrant farmworkers, and he'd actually been focusing on the Eastern Shore of Maryland, but it could have been anywhere in the country.

And at the end the anchor said to him, "You did a great job. Do you think things have improved in the last few years, now that you're an expert on migrant farmworkers?"

And the guy said, "You know, Edward R. Murrow did the same story 30 years ago and certainly did a much better job than I could ever hope to do, but you know, as far as I could tell, no, nothing has changed."

I think that's the reality.

Ms. **Fisher.** Thank you.

Mr. **Goldstein.** Thank you very much.

Ms. **Fisher.** Although I have to observe that there are examples of programs that are working, and I would agree strongly that if at the national level there was as policy a change in attitude and, as you said, enforcement of existing laws and the closing of the loopholes that Mr. Williams mentioned, then I think these positive programs--I am familiar with the program that Ms. Hughes mentioned in Winchester, what Mayor Viveros has done, what Mr. Garza and Ms. Hernandez have done--these things then would come together, and I think that they would be expanded that much faster.

We were very disappointed at the Commission that nothing was done with former Secretary of Labor Ms. Dole's Farm Labor Strategy, which stemmed from when she went down to tour the Immokalee area. She had some good recommendations. Regrettably, at the national level nothing was done, and so I couldn't agree with you more that until there is the political will in this country to do what all of you are trying to do in this room, we're still stuck.

And I have a feeling that there is going to be progress. I don't know why. I just have a gut feeling that there is going to be a faster rate of improvement coming on the horizon if we just keep at it.

Mr. Williams. Can I respond to one point?

Ms. Fisher. Sure.

Mr. Williams. You know, I think, of course, videos can be somewhat deceptive. I mean you can show both the very good or you can show the very bad, and maybe the truth is somewhere in between, but it's not true that we don't have the data. We've got data running out our ears from all of these researchers, and I think the data paint a picture which is at odds with what was shown on the video.

I mean the data from the National Agricultural Workers Survey and the other studies that have been done show farmworkers being grossly underemployed. They show a large surplus of farmworkers in the United States. They show that wages are stagnant or are falling. They show that most farmworkers are living in substandard housing. They show that few farmworkers are able to benefit from the various government programs and benefits, such as unemployment.

So I don't know. I mean, I think the excuse for not acting that we don't have enough data; I think we have plenty of data that show the condition, and we don't have to rely on a battle of who's got the most appealing or slickest produced video to make up our minds. I mean we've got some hard information about the national picture, and I think you're right. I mean it's time for some action.

Our problem on farmworkers isn't that we don't know what the solution is. We've just lack the will for 30 years to really say that we don't want the substandard conditions to go on anymore, and because people are critical of the substandard conditions which are the norm, it doesn't mean that we shouldn't applaud the people who are doing the right thing.

One further point on the problem of job placement and job continuity. I mean, I agree. I mean I think programs like Duda's, I think those are a good idea. My own feeling is that we don't need the government to do that. I'll guess that wherever those things are going to work, it's going to be because it's going to be grower-to-grower contact. I personally think the government is incapable of organizing or planning or, you know, movement of workers.

When employers see it in their interest to provide for continuity of employment, either to maintain a skilled work force or to lower their unemployment compensation taxes, then I think they will take those steps. They're not going to do it without an incentive.

I think, again, that comes back to this whole thing. Yes, some growers are providing good housing. Some growers are doing these things. Some growers have adopted the so-called modern management techniques, although those seem to be techniques that are not modern anymore. I mean they were thought of 50 years ago.

But what is the incentive for all growers to take those steps? Where is the incentive to do those things?

Agriculture is a highly competitive industry. People are very cost conscious. We have a lot of foreign competition. In the face of that, where will the incentive come from to take those steps if not from increased enforcement by the government?

You know, if it's just altruism, the guy who spends a lot of money building nice housing and pays the workers a little better, he's going to lose out to his competitors who don't do those things. You know, I think that's what we have to focus on. Where is the incentive? What is going to be an incentive for making those changes?

Ms. Hughes. As far as the incentives go, what did prompt A. Duda to build a lot of these programs is they did want to have a more skilled labor force that they knew would be coming back. I think they have something like 70 to 80 percent of their workers coming back each year.

I think that will be the same incentive for other employers, in order to have a stable work force, to have a knowledgeable work force that's been there in the past and they know will come back the following season.

Right now there is a lot of consolidation going on in the agricultural industry. The small growers are basically dropping like flies, and so the growers are becoming larger entities, and I do think that the things like A. Duda is doing will start expanding more to other groups.

The video is just to show you some of the good examples that are out there, to let you know that it's not all bad, that there are improvements being made, and that it is a slow process, and that hopefully the other growers in time will be progressing that way also.

Of course, it's going to be larger employers that are able to do it first. It's the larger employers who have more growing operations in different parts of the country so they can move the workers themselves.

For the small employers, frankly, their problem is that they don't know the laws. I've been out there giving these workshops on IRCA around the country, going into different regions, pulling in the smaller employers, and you know, they really thought that all that was required of them from IRCA was filling out that I-9 form, and when they got the answers onto that I-9 form, that was it.

They didn't know about the anti-discrimination provisions. All they knew about was from INS and the border patrol coming around doing raids, stalking at their doors, looking for illegals, and, "Oh, my God, I'd better not hire an illegal." And so they became overzealous in trying to fill out those I-9 forms and checking the documents, not realizing that they were violating another part of the law.

They need to be educated on it, and there really isn't a concerted education effort going on. The Council is able to do this particular education effort because we have a grant from the Department of Justice. I wish the Department of Labor would come up with a similar grant program so we could do other, additional workshops.

Right now the only workshops I know of are ones helping the farmworkers know their rights, but that's only half the story if you're not telling the growers their responsibilities.

Probably--Libby Whitley just left from the Farm Bureau--they would have some funds to do some educational efforts, and I know that the county extension services try to do their part, but there's not a consistent effort to get the word out there on what to do. All that's out there is the enforcement actions that scare a lot of employers into trying to find out the laws if somebody near them, you know, gets hit. But I don't see that really helping workers. It helps the workers for those few little instances.

You need to educate all of the growers so that everybody knows what they should be doing.

Ms. **Hernandez.** I want to address that.

Mr. **Williams.** Just to respond to one point.

Ms. **Fisher.** Mayor Viveros, then Mr. Williams.

Mr. **Viveros.** Thank you.

I think that the responsibility, although the employers are the first in the tier of responsibility, responsible for the workers; I think the responsibility is also for all of us consumers in this country that buy the fruit and produce of that farm laborer.

In my written comments, I was proposing 25 cents per box attached to the sale of every box of produce sold in this country. We could create a national fund to address those needs for farmworker's housing and health care, as well; that the whole consumers in this country would pay for assistance to this population.

The consumer would never feel it because we're talking about maybe one cent per pound of produce produced in this country, and certainly I think that where there's a will, there's a way. We can find a way to assist the population. So that was my recommendation on that issue. The responsibility lies with all of us as well.

Ms. **Fisher.** Mr. Williams.

Mr. **Williams.** Well, I agree with that. I want to give one example and then go back to something Ms. Hughes mentioned.

We just passed in Florida a bill which prohibits communities from zoning out migrant housing. In many cases, where we want to build housing we find the "not in my backyard" phenomenon, and I mention this because A. Duda helped us pass that bill, and I appreciate that.

But to go back to what we were saying, I happen to know personally exactly why A. Duda instituted these changes: because in 1976, I brought a lawsuit against A. Duda, and at that time A. Duda's camps at Naples and LaBelle were, in my mind, the worst situations I've ever seen in years of representing farmworkers, and they were dreadful situations that went far beyond Harvest of Shame.

And at the same time, there was a series of three Jack Anderson columns about the situation of A. Duda. Now the company got the message. They got rid of the labor contractors. They tore down the camp. They put in a new camp, day care, and they essentially have been a model employer since that time.

But I think that somebody needed to send the wake-up call before that happened, and you know, people need to have incentive to act, and it can't just be based on people's good feelings, and obviously just the incentive of being raked over the coals in the press every few years hasn't been enough to do the job during the last 25 years. So, again, I come back to the point that the solution for our problem is an emphasis on enforcement, and not just picking on people, but a fair and firm policy of enforcement so that everyone realizes that they have to change and not just have a few people change.

Ms. **Fisher.** Ms. Hernandez.

Ms. **Hernandez.** Yeah, I just wanted to say that ignorance of the law is not a defense. That's always being told to the farmworkers, and I get very upset because we all know the minimum wage is 4.25. How can the grower tell me they don't have to pay 4.25 if they're paying piece rate?

So this thing about teaching growers, yeah, teach the growers, but it doesn't go to the contractor. So again you get the same damned problem happening every time. Get rid of the contractor. Make the grower responsible. Teach the grower, yes, but make sure that the grower is responsible for what you teach him.

When he passes on that responsibility to a "contractista" or the "majordomo" it does not flow down to the ground.

Almost three weeks ago I went to San Quintin, Baja, CA, on my own. I financed my grassroots organizing on my own. I went to go meet with approximately 4,000 Mixtecos who were ready to come up north, and the Mixteco, when I started the migrant unit, there was three streams, east, middle, California. It was mostly coming out of Texas.

Now we get people all the way from San Salvador, Honduras, the Mixtecos, Guerrero, Guatemala, and the only thing I have in common with most of the farmworkers is some of them happen to speak Spanish. Some of them have their dialogue. I have to get interpreters to translate for me, but these guys go all over. One day they're in Fresno. The next season they're in Immokalee, FL. They're in Maine, north Virginia. They travel a hell of a lot of places than I've ever gone.

But they should know that the minimum wage is 4.25 all over, and if they know, the grower should know. I mean it was advertised.

The other thing I wanted to say is that because I think the Helsinki Commission also has to look at international boundaries. I'm starting to see more and more the Mixteco people come up. I met with some Mixtecos from Oaxaca last Sunday again on my own, 5 hours. They were talking about how because of the free trade agreement negotiation, Mexico dropped out of the Cafeteria Association, coffee. So now the coffee in the Mixteco is not sold because there's no price.

That's forcing the people to migrate up north, and they were saying if you could develop some kind of economic development in the Mixteco, we wouldn't have to come up north. If we could have a price on our coffee, and then they started doing this propaganda. It has no pesticide; grown green, you know.

I think that's what we need to look at, is we need to look at international boundaries. We need to stop what's happening down South and forcing the people up North. We need to look at San Quintin, where the biggest corporations of the United States are going in, doing strawberries, but not improving the conditions. They're raping the land. They're forcing people out of their homeland. Indigenous people are losing their culture. They're losing their dialect, and they're being forced into the worst conditions possible.

Yeah, there's some state migrant camps, the Texans. We share clients. We were talking about that yesterday, but the mixtecos, I mean, if you were to see on my birthday two years ago, for example--it still hurts every time I think about it--I was in Madera looking for some clients. They go, "Gloria, Gloria." Nobody calls--I don't have titles, remember. They go, "Gloria, the rancher just threw this lady out, and she just delivered a baby by C section."

The season was over. They didn't need them anymore. The woman and her 3-day baby, her two other kids, and the husband were at the river bottom. I was out there until 11 at night with my flashlight trying to find them to take them home. I couldn't find them.

And there's got to be responsibility, and it can't be left to the "contractista." It can't be left to the grower. It has to be to the damned government. The government needs to take responsibility. They've got to start enforcing AWPA, which is the Agricultural Worker Protection Act, and they've got to enforce it seriously. They've got to amend the act to provide child care.

I mean right now what the mixtecos asked me on Sunday, they said, "Is there any way that we can get a fund at least to send our bodies home?"

Mr. **Worthington.** Yes, my name is Lawrence Worthington. I'm the person referred to as a state monitor advocate for the State of Maryland.

I grew up on Maryland's Eastern Shore as prodigal seasonal farmworkers. As a teenager I was a seasonal farmworker. I'd like to respond to Ms. Hughes' comments regarding education in Florida.

I've been working with my counterparts in the State of Virginia with the Virginia Employment Commission. Did you ever hear of a program called MILAW? It's called Migrant Labor Law. It's a computerized catalog of federal and state regulations regarding all farm labor, immigration, minimum wage, MSPA, Migrant Agricultural or Migrant Seasonal Agricultural Protection Act, Fair Labor Standards Act. The whole nine yards is on a computer chip.

And what we've been trying to do, we've been trying to institute that program in Maryland. I've been working with the Executive Director of the Governor's Commission on Migrant Labor, Ms. Delores Street, for whom I come over here, and we were being told every corner we turned there is no money. Yeah, there's a lot of things that we're doing to educate the farmers, and we're being told there is no more money.

I think the MILAW program should be expanded to all 50 states, but there is no money to do this, and it's an excellent program. You ought to see it. It's unimaginable.

The university, Virginia Polytechnic Institute, Virginia Employment Commission, and some other consultants put together this package, and it is really amazing. All you have to do is put your program into the computer and punch it up. It's got direction on it and everything, and even the most illiterate grower could understand a program of that nature.

And as far as the federal-state job service system, Florida has instituted a program called the AMWITS Program, Automated Migrant Worker Itinerant Tracking System, and we've been trying to get on line with that, whereby each state knows and can report as to how many available migrant workers they have. We're trying to work on the movement of migrant workers from one state to another.

You know, sometimes it's virtually impossible without big Carlos Contractistas, you know. We've got to have these people to move workers from Texas to Maryland or Texas to Virginia, you know. How do we move these workers once they're identified? That becomes another problem.

I'm looking for suggestions. I work for the Maryland job service system, and we want to make it better. You know, does anyone have any suggestions on how we could move forward to bring the employers and workers together?

Ms. **Hernandez.** I'm afraid that once the worker finds out that there's good job conditions, there's housing, they don't need a "contractista." They go on their own.

Mr. **Worthington.** Right. They do.

Ms. **Hernandez.** The "campesinos" that I deal with don't normally travel with "contractistas."

Mr. **Worthington.** Right. They're free-wheeling, and they'll come back year after year if the conditions are right. I know this because I grew up on a farm. They'll come back and work for the same farmer year after year, you know.

And basically it's been my experience over the last ten years the only time the growers or the farmers use the federal-state job service system is when they want H-2's or H-2A's, and believe me. In the State of Maryland, in western Maryland, we had one of the biggest controversies in the whole nation regarding the H-2A program.

As a matter of fact, the new laws and regulations and policies that DOL has now promulgated over the last several years erupted, evolved out of decisions that were made as a result of activity in the State of Maryland.

Ms. **Hughes.** I'd just like to say, first of all, I'd like to talk to you about--MILAW you called it? I would really like to hear more about that because that would be wonderful. We could try spreading that around a little bit more.

And as far as the employment service and the fact of using contractors, that really is the main reason that I hear from a lot of the growers as to why they use a contractor, is because contractors have the workers. If we just had some sort of a better system for matching, then maybe they wouldn't use them so much because that is the reason they're always giving me.

I really wish that there was a way that DOL would crack down and get rid of the licenses of the farm labor contractors and make it such a way that they can't then pass the license on to a member of their family so that they're still running the business. It is the farm labor contractors that are giving agriculture the biggest black eye you've ever seen. But enforcement of their activities would bring improvements.

There are instances where there are absentee growers and things like that, where, you know, supposedly they want to keep the independent contractor relationship there so that they won't have the strict liability.

Ms. **Hernandez.** But they have personnel departments. I mean we went after J.G. Boswell, the biggest cotton grower in California. He has a personnel department. He doesn't need ''contractista.''

Ms. **Fisher.** Mr. Williams.

Mr. **Williams.** I just want to say on the operation of the interstate job service, you know, the Department of Labor had a study group for ways to improve the interstate job placement service, and I went to some of their meetings. From the bottom up, from the people at the lower level, the people from the state employment services consistently identified the problem with the interstate job service system was the lack of family housing and the lack of transportation advances.

The job service people from Texas said that they believed that they could fill every job in the country with workers from the Valley if family housing and transportation advances were mandated under the system. But when it got to the top, the Department of Labor shrank from taking--''let's not do that,'' you know. ''Let's not take the action that everybody says is needed to make the system work.''

And so I think the system is doomed to continue to fail.

Ms. **Fisher.** Yes.

Ms. **Germino.** Hi. My name is Laura Germino. I work as a community outreach worker and paralegal with Florida Rural Legal Services around Immokalee and Belle Glade, the areas shown in the video.

I do want to reiterate that I go to labor camps and housing in those areas, and the video gave me an opportunity to see the kind of housing I don't get to see in my work on a daily basis. Usually what I see is more like dilapidated trailers or old shacks for very high rent.

But I wanted to reiterate also that I second Ms. Hernandez's statement about conditions and problems for migrant farmworkers because it's the same kind of concerns that we have in Florida. I was also interested in some of her recommendations, particularly one about the Legal Services Corporation lifting its restrictions on all the extra work she does.

And I wanted to know what you or anyone on the panel thinks about the chances of these restrictions being lifted, as I take it they're not set in stone.

Ms. **Hernandez.** One of my fantasies.

Ms. **Germino.** One of your fantasies.

Ms. **Hernandez.** I don't know.

Ms. **Fisher.** Mr. Williams, do you have any thoughts?

Mr. **Williams.** Well, it's the same old story, you know. The strategies that are effective are oftentimes the ones that are foreclosed by law. I don't expect that the ban in LSC regulations on community organizers is going to be lifted any time soon.

Ms. **Soper.** My name is Paula Soper, and this is Wendy Madigoski, and we go to Trinity College here in DC, and we recently spent our spring break living and working with migrant farmworkers in Apopka, FL.

Ms. **Madigoski.** Much better than the beach, I'll assure you.

This has been a very encouraging briefing for us, as well, hearing all of the recommendations. What we saw also wasn't typical of what was seen in the video.

We agree with the recommendations for the enforcement of the regulations, as well as the education for the growers and contractors. I just have a question for Mr. Williams.

Some of our fellow students went down to help with the legislation in Tallahassee for the Right to Know Act, and I was wondering what you believe the fate of that act will be.

Mr. **Williams.** Well, I know what the fate was. It didn't pass, and Ms. Hughes said that final regulations had been promulgated by EPA. That's not correct with respect to the worker information element of the worker protection regulation. EPA has still not acted on that.

And I think that although I suspect that the farmworkers in Florida--we may try to bring that issue back in special session--but I think really the focus ought to shift here to the EPA in getting them to act promptly to issue informational standards for farmworkers about pesticides in the work place and issue strong regs that can go into effect before the next season begins.

You know, the concern in Florida is that, as you know, there's a pesticide known as Benlate, which is now being linked with possible health effects, and farmworkers are very concerned there that they know whether or not Benlate is being used, and I think that, you know, I just think it's unconscionable that a pregnant woman who's working in the fernery doesn't have the right to know whether a possibly carcinogenic pesticide is being used at that location. I just think that's a fundamental right to have, and they shouldn't have to wait years before they have that right.

Everybody else has had that right to know about toxic substances in their work place for years back, and it is only the farmworkers that have been once again left out.

Ms. Hernandez. Thank you.

Ms. Hughes. There is a provision in the farmworker protection standards that requires the growers starting next year to have information on file about each of the chemicals that they are using and to post notices when they are spraying, and the farmworkers have to have access to those files for more information about the chemicals.

Ms. Fisher. Well, unless anybody has a final comment, I think that about wraps up this final briefing, and I think we all know what the problems are. We've pinpointed them through each of these hearings, and it goes to the fact that it is a question at the national level of political will to enforce existing laws and to close the bad loopholes.

And, again, I think we've all seen today there is in place an infrastructure to move ahead very quickly in addressing the most egregious problems, if we could only get to the heart of the matter, and that "if" has been a huge one over the last 30 years, and I hope that lady back there who stood up a couple of briefings ago and said she felt she was hearing a broken record will come back in a very short while and say that she sees some significant progress.

We at the Commission chose to examine this area of human rights abuses in the United States because we felt it was very serious. We are committed to continuing our efforts to see that these problems, which go to the heart of the Helsinki process, which is respect for human dignity, are respected throughout this country because it diminishes us all when we allow one group of people to be discriminated against.

So thank you very much for your commitment.

[Whereupon, at 12:41 p.m., the briefing was concluded.]

APPENDIXES

APPENDIX 1. CSCE Information on Migrant Labor

Statement of Ambassador Samuel G. Wise
U.S. Delegation to the Helsinki CSCE Follow Up Meeting
Working Group Three
June 5, 1992

MIGRANT WORKERS

Various sessions of this working group have been designated for discussion of national minorities, migration, and tolerance. One of today's topics -- the question of migrant workers -- in many respects encompasses aspects of each of these other areas of concern.

Language pertaining to migrant workers in the CSCE community is found in numerous CSCE documents, from the original Helsinki Final Act to the Moscow Document of 1991. Traditionally, this language has been found in what used to be called Basket II, but many migrant worker issues have a most definite relevance to the human dimension of the CSCE. It is evident that, as CSCE has evolved and expanded, so, too, has our willingness to devote attention and concern to this issue. Over time, our mutual commitments have grown to encompass not only conditions of employment for migrant workers, but also housing, vocational training, education, special needs of youth, cultural rights, and health.

Together, CSCE countries have condemned all acts of discrimination on the grounds of race, color and ethnic origin, intolerance, and xenophobia against migrant workers, and agreed to take effective measures to promote tolerance, understanding, equality of opportunity and respect for the fundamental human rights of migrant workers. Yet addressing these kinds of challenges and concerns will require new commitment and creativity.

I would like to comment briefly on this as it applies to my country as an example. My delegation believes that examination of our own record can enhance both our understanding and our credibility when discussing similar issues with the governments of other participating States. I must say at the outset that the status and character of the work of migrant workers in Europe and migrant workers in the United States are vastly different in many respects, and the United States may not be the most useful country for comparison when focusing on the migrant worker issue. My country's migrant labor force is predominantly agricultural and seasonal. Nevertheless, many of the problems facing this population reflect basic socio-economic factors at the root of migrant labor questions in other countries.

In my country, dealing with the problems of migrant workers involves authorities at every level of government in fields of health, labor, education and environment; it involves private advocacy groups and service providers, including religious organizations. Perhaps most importantly, the problems facing migrant workers reflect attitudes and actions of employers, contractors, officials, local residents, and the migrants themselves. The question is not simply how to eliminate barriers to justice and equality, but rather how to implement and enforce laws and regulations that guarantee the very same. For any nation, this challenge is complicated by societal biases against migrant populations, economic realities, and by the migrants' own relative lack of empowerment.

To that end, the Helsinki Commission, of which I am Staff Director, has undertaken a series of investigative trips through the American South and West to examine the conditions of migrant farmworkers in these parts of the United States. During these trips, staffmembers met with State and Federal officials, advocates, service providers, legal assistance groups and migrant farmworkers themselves.

Concerns which emerged included: wage fraud; intimidation, harassment and physical violence, including sexual; unsafe exposure to toxic pesticides and chemicals; substandard housing; racial discrimination; restricted movement; restricted access to legal assistance; child labor violations; inadequate and restricted access to health care; unsafe and potentially deadly transportation; and inadequate or ineffective law enforcement mechanisms. The Commission found, as did a February 1992 report by the United States General Accounting Office, that in many cases, migrant farmworkers are not adequately protected by federal laws, regulations, and programs. As a consequence, their health and overall welfare are at risk.

Certainly, the migrant labor population in my country presents a particular challenge to lawmakers and service providers. Often itinerant, predominantly poor, frequently illiterate, and by-and-large disenfranchised, they only too easily fall through the cracks in the system. At a time of budgetary restraint, finding the resources to meet the overwhelming need is a difficult enterprise. Political will and creative energy are essential to implementation of programs which will benefit migrant workers, their families and their employers.

In addition to federal statutes, such as the Migrant Seasonal Agricultural Worker Protection Act of 1983, a variety of groups, organizations, and programs have been developed to respond to the needs of the migrant population. At the federal level, these include farmworker housing programs, the Migrant Health Program, and Migrant Head Start -- an educational program for migrant children. At the state level they include, for example, pesticide regulations and other health and safety requirements which can exceed federal requirements. In California and other states, a system of regional monitor advocates has been established to represent migrant worker interests before state and local authorities. At the community level, a broad web of organizations -- many actively involving or even run by the migrants themselves -- help migrant farmworkers and their families deal with numerous concerns, from health to housing to education.

But reforms have been long in the making. Service providers, legal assistance groups and advocates note with frustration that many of the problems they confront today have existed for decades. Many people knowledgeable about the problem expressed concern that agencies mandated to enforce pertinent laws were not fulfilling their responsibilities. Resolving such problems will clearly take sustained commitment and concern.

While the specific situation in the United States is different than that in Europe, Mr. Chairman, it seems that migrant workers in all our countries face some common problems, particularly in the area of discrimination. In bringing these and other problems to the attention of the meeting, it is our belief that we can contribute to their solution.

LANGUAGE FROM CSCE DOCUMENTS CONCERNING MIGRANT WORKERS
1975 - 1991

-- to encourage the efforts of the countries of origin directed towards increasing the possibilities of employment for their nationals in their own territories, in particular, by developing economic cooperation appropriate for this purpose and suitable for the host countreis and the countries of origin concerned; (HFA)

-- to ensure, through collaboration between the host country and the country of origin, the conditions under which the orderly movement of workers might take place, while at the same time protecting their personal and social welfare and, if apropriate, to organize the recruitment of migrant workers and the provision of elementary language and vocational training;

-- to ensure equality of rights between migrant workers and nationals of the host countreis with regard to conditions of employment and work and to social security, and to endeavor to ensure that migrant workers may enjoy satisfactory living conditions, especially housing conditions ;

-- to endeavor to ensure, as far as possible, that migrant workers may enjoy the same opportunities as nationals of the host countreis of finding other suitable employment in the event of unemployment'

-- to regard with favor the provision of vocational training to migrant workers and, as far as possible, free instruction in the language of the host country, in the framework of their employment;

-- to confirm the right of migrant workers to receive, as far as possible, regular information in their own language, covering both their country of origin and the host country'

-- to ensure that the children of migrant workers established in the host country have access to the education usually given there, under the same conditions as the children of that country and, furthermore, to permit them to receive supplementary education in their own language, national culture, history and geography;

-- to bear in mind that migrant workers, particularly those who have acquired qualifications, can by returning to their countries after a certain period of time help to remedy any deficiency of skilled labor in their country of origin;

-- to facilitate, as far as possible, the reuniting of migrant workers with their families

To regard with favor the efforts of the countries of origin to attract the savings of migrant workers, with a view to increasing, within the framework of their economic development, appropriate opportunities for employment, thereby facilitating the reintegration of these workers on their return home. (HFA)

-- recommend the host countries and the countries of origin to intensify their contacts with a view to finding solutions to the problems which exist in the field of migrant labor. While fully implementing the existing agreements to which they are parties, they should also continue, by all appropriate means, their efforts to improve the situaiton of migrant workers in conformity with the provisions of the Final Act on migrant labor, including the solution of the problems in the economic, social, human and other fields. (VMEMC)

-- intensifying contacts with a view to improving further the general situation of migrant workers and their families, inter alis the protection of their human rights including their economic, social and cultural rights while taking particularly into account the special problems of second generation migrants; endeavoring to provide or promote, where reasonable demand exists, adequate teaching of the language and culture of the countries of origin (MCD)

-- recommend that, among other measures for facilitating the social and economic reintegration of returning migrant labor, the payment of pensions as acquired or established under the social security system to which such workers have been admitted in the host country should be ensured by appropriate legislative means or reciprocal agreements (MCD)

-- continue of efforts to solve problems in the field of migrant labor. . .; (VSMC)

-- implement provisions of Final Act and Madrid Concluding Document relating to migrant workers and their families in Europe; invite host countries and countries of origin to improve further the economic, social, cultural and other conditions of life for migrant workers and their familiies legally residing in host countries; promot bilateral cooperation in relevant fields to facilitate reintegration of migrant workers and families returning to country of origin; (VCD)

-- consider favorably applications for family reunification as well as family contacts and visits involving migran workers from other participating States legally residing in host countries; (VCD)

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The participating States reaffirm their conviction expressed in the Vienna Concluding Document that the promotion of economic, social and cultural rights as well as of civil and political rights is of paramount importance for human dignity and for the attainment of the legitimate aspirations of every individual; reaffirm their commitment taken in the Document of the Bonn Conference on Economic Co-operation in Europe to the promotion of social justice and the improvement of living and working conditions. In the context of continuing their efforts with a view to achieving progressively the full realization of economic, social and cultural rights by all appropriate means, they will pay special attention to problems in the areas of employment, housing, social security, health, education and culture. (CCHD)

-- recognize that the issues of migrant workers and their families legally residing in host countreis have economic, cultural and social aspects as well as their human dimension; reaffirm that the protection and promotion of their rights, as well as the implementatin of relevant international obligations, is our common concern; (PC)

-- The participating States recognize the need to ensure that the rights of migrant workers and their families lawfully residing in the participating States are respected and underline their right to express freely their ethnic, cultural, religious and linguistic characteristics. The exercise of such rights may be subject to such restrictions as are prescribed by law and are consistent with international standards. (MCHD)

-- condemn all acts of discrimination on the ground of race, colour and ethnic origin, intolerance and xenophobia against migrant workers. They will, in conformity with domestic law and international obligations, take effective measures to promote tolerance, understanding, equality of opportunity and respect for the fundamental human rights of migrant workers and adopt, if they have not already done so, measures that would prohibit acts that constitute incitement to violence based on national, racial, ethnic or religious discrimination, hostility or hatred. (MCHD)

-- will adopt appropriate measures that would enable migrant workers to participate in the life of the society of the participating States. (MCHD)

-- note that issues which concern the human dimension of migrant workers residing on their territory could, as any other issue of the human dimension, be raised under the human dimension mechanism. (MCHD)

-- recommend that the CSCE in its future work on the human dimension consider appropriate means to hold focused discussions on all issues regarding migrant workers, including inter alia, familiarization with the language and social life of the country concerned. (MCHD)

Ensure that migrant workers from [illegible] participating States, and their families, can freely enjoy and maintain their national culture and have access to the culture of the host country; (VCD)

-- take measures needed for better use and improvement of educational opportunities for children of migrant workers; enourage or facilitate, where reasonable demand exists, supplementary teaching in their mother tongue for the children of migrant workers; (VCD)

-- recognize that issues of migrant workers have their human dimension; (VCD)

-- encourage cooperation in field of vocational training policy through increased exchange of information and experience, with aim of enhancing the educational standards, professional knowledge, skills and apatability of personnel involved in industry and commerce; (VCD)

-- ensure necessary conditions for education and vocational training of young people and promote youth employment opportunitites in various sectors of economy; create conditions for developing the level of scientific and cultural knowledge of their citizens, especially young people, and for facilitating their access to achievements in areas of natural and social sciences, as well as culture; (VCD)

-- reaffirm that the protection and promotion of the rights of migrant workers have their human dimension. In this context, they (CCHD)

-- agree that the protection and promotion of the rights of migrant workers are the concern of all participating States and that as such they should be addressed within the CSCE process; (CCHD)

--reaffirm their commitment to implement fully in their domestic legislation the rights of migrant workers provided for in international agreements to which they are parties; (CCHD)

-- consider that, in future international instruments concerning the rights of migrant workers, they should take into account the fact that this issue is of importance for all of them. (CCHD)

-- express their readiness to examine, at future CSCE meetings, the relevant aspects of the further promotion of the rights of migrant workers and their families. (CCHD)

LIST OF CSCE DOCUMENTS

(HFA) Helsinki Accords, 1975

(BCD) Concluding Document of the CSCE Followup Meeting, Belgrade, 1978

(MMEPSD) Final Report of the CSCE Meeting of Experts on the Peaceful Settlement of Disputes, Montreux, 1978

(VMEMC) Final Report of the CSCE Meeting of Experts on Mediterranean Cooperation, Valletta, 1979

(HSF) Final Report of the CSCE Scientific Forum, Hamburg, 1980

(MCD) Concluding Document of the CSCE Followup Meeting, Madrid, 1983

(AMEPSD) Final Report of the CSCE Meeting of Experts on the Peaceful Settlement of Discputes, Athens, 1984

(VSMC) Report of the Seminar on Mediterranean Cooperation, Venice, 1984

(StFD) Final Document of the Conference on Confidence- and Security-Building Measures and Disarmament in Europe, Stockholm, 1986

(VCD) Vienna Concluding Document, 1989

London Information Forum, April 18 - May 12, 1989

Conference on the Human Dimension of the CSCE, Paris, May 30 - June 23, 1989

(SMPE) Meeting on the Protection of the Environment, Sophia, October 16 - November 3, 1989

(BCEC) Conference on Economic Cooperation in Europe, Bonn, March 19 - April 11, 1990

(CCHD) Conference on the Human Dimension of the CSCE, Copenhagen, June 5 - 29, 1990

(PMMM) Meeting on the Mediterranean, Palma de Mallorca, September 24 - October 19, 1990

(PC) Summit, Paris, November 19 - 21, 1990

(VD) Vienna Document, 1990.

(VPSD) Meeting of Experts on Peaceful Settlement of Disputes, Valletta, January 15 - February 8, 1991

(KSCH) Symposium on the Cultural Heritage, Krakow, May 28 - June 7, 1991

(GEMM) Meeting of Experts on National Minorities, Geneva, July 1 - 19, 1991

(MCHD) Conference on the Human Dimension of the CSCE, Moscow, September 10 - October 4, 91

Seminar of Experts on Democratic Institutions, Oslo, November 4 - 15, 1991

[The following CSCE language was agreed to by the 51 participating States at the Helsinki Meeting in July, 1992. It is the most recent expression of CSCE standards and commitments in the area of migrant workers.]

MIGRANT WORKERS

The participating States

Restate that human rights and fundamental freedoms are universal, that they are also enjoyed by migrant workers wherever they live and stress the importance of implementing all CSCE commitments on migrant workers and their families lawfully residing in the participating States;

Will encourage the creation of conditions to foster greater harmony in relations between migrant workers and the rest of the society of the participating State in which they lawfully reside. To this end, they will seek to offer, *inter alia*, measures to facilitate the familiarization of migrant workers and their families with the languages and social life of the respective participating State in which they lawfully reside so as to enable them to participate in the life of the society of the host country;

Will, in accordance with their domestic policies, laws and international obligations seek, as appropriate, to create the conditions for promoting equality of opportunity in respect of working conditions, education , social security and health services, housing access to trade unions as well as cultural rights for lawfully residing and working migrant workers.

APPENDIX 2. Briefing One: General Conditions and Labor Issues

BORDER AGRICULTURAL WORKERS UNION (UTAF)

PRESENTATION BEFORE THE
COMMISSION ON SECURITY AND COOPERATION IN EUROPE
UNITED STATES CONGRESS
July 20, 1992, Washington, D.C.

Mr. Chairman and Members of this Commission:

It is an honor for me to appear before this prestigious commission to present testimony in the name of our organization, Border Agricultural Workers Union (UTAF), about the problems that today confront the men, women and children that labor in the fields of this country. I sincerely appreciate this opportunity that you have given me to participate at this important hearing.

Our organization is based in El Paso, Texas. This area has become the most important recruitment point for agricultural workers on the border between the United States and Mexico. From this area, farmworkers depart to the most important agricultural regions of this country. Other farmworkers, around 15,000, stay to work in this region, fundamentally in southern New Mexico.

Our organizing efforts date back to 1980 and personally, I have been involved in the farmworker movement since the mid-seventies. This experience has allowed me to affirm that the situation in which the agricultural workers find themselves is an embarrassment and moral disgrace to this country.

Historically, agricultural workers have suffered from low wages and dangerous and unsanitary working conditions. Many studies and hearings have been conducted on innumerable occasions, in the public and private sector, to document this.

And in spite of these many studies and hearings, the changes that have been in agriculture have been insignificant and useless. To the contrary, not only has there been no changes in the agricultural fields of America but the situation has worsened. In California, which supposedly was the example for the rest of the country, it is common to find farmworkers living and working in subhuman conditions. The same is in Florida, where the concentration camps of the 60's and 70's have reappeared and we have been reminded of the system of slavery. The migrant families from Texas still have to the sleep in their vehicles parked along side the fields in Washington. And this is the way it is all over the country, but particularly in the southwest and southern part of the United States.

Nevertheless, our first hand experience is the labor situation of the region of southern New Mexico and far west Texas, particularly in the chile industry.

This is one of the most productive industries along the border. But also, it is one that has the most blatant violations of labor and human rights of agricultural workers. The chile industry generates earnings of nearly 300 million dollars for the state of New Mexico. In order to give you an idea of the importance of this product, one must mention that its' value has increased constantly during the past decade from $26,352 million in 1980 to $59,219 million in 1991. And this is only the value of the chile crop, its' value and the earnings produced increased considerable. Recently a study was published that indicated that picante sauce has surpassed catsup sales.

But this prosperity is based on the thousands of human beings that pick the product while receiving extremely low wages and working under deplorable conditions. In the chile fields of New Mexico, as in many places, they pay by piece rate, for what each worker produces, and this pay has not changed for the past ten years. Because of this, the annual salary of agricultural workers in our region was $5,300 in 1991. This is not even one-third of what a American worker that lives in poverty, according to guidelines established by the federal government, earns.

Besides the low salaries, they confront many other problems. Due to low salaries or the scarcity of housing for farmworkers, many of them are forced to take their children to the fields. In the field, the children are forced to work as adults, without access to basic necessities such as fresh drinking water or portable toilets, and they are exposed to all types of risks and hazards. In the first photograph you see Lorena Llamas-Guerrero, 3 years of age, who on June 5th of this year lost her life on the side of an onion field in Salem, New Mexico.

National statistics prove that farmwork is among the most dangerous of all occupations. Nevertheless, states such as New Mexico, exclude agricultural workers from the Worker's Compensation Law.

Farmworkers and their families are denied medical assistance and access to health programs. Because of this, it is not unusual that the incidence of tuberculosis and other contagious illnesses are extremely high among the workers. Apart from this, they are denied basic benefits such as unemployment compensation insurance, and since the majority of farmworkers lack stable housing, they are rejected when they seek public or private assistance. If this were not enough, their human and civil rights are constantly violated by various law enforcement authorities that operate along the border region.

The reasons for this tragedy are many. One of them is the indifference on behalf of the government, particularly agencies such as the Department of Labor, to force employers to respect the laws and regulations that protect agricultural workers. Further is the weakness of these laws and regulations to achieve sufficient protection of the interest of agricultural workers.

Most of the problems farmworkers face are also the result of the use of farm labor contractors by growers and agribusiness. The labor contractors are the worst violators of such laws as the Migrant and Seasonal Workers Protection Act and the Fair Labor Standards Act.

Nonetheless, the most important aspect is the lack of collective bargaining rights for farmworkers. Without this right, you cannot establish an organization that allows the workers themselves to better their wages and working and living conditions. All other workers have this right and therefore their wages and working conditions are distinct from farmworkers.

Mr. Chairman, Without the right to collective bargaining, agricultural workers will continue submerged in poverty and injustices that they face. Besides this, the right to organize is a universally recognized basic right by all countries that consider themselves to be a democracy. There is no justification to continue to deny this right to those that feed this nation. The Congress has the moral obligation to support the initiatives of the farmworkers to strive for a better life, utilizing this right.

Mr. Chairman, members of this commission, once more I want to express my sincere appreciation for the invitation to come before you and I hope that the results of this hearing will benefit millions of agricultural workers that suffer exploitation and poverty, because of the negligence of a greedy and ambitious agricultural industry that continues to increase their profits at the expense of human suffering.

Thank you,

Carlos Marentes

LIST OF PHOTOGRAPHS:

1. Lorena Llamas-Guerrero, killed on July 5, 1992, near an onion field in Salem, New Mexico.

2. Old buses used by farm labor contractors to transport workers to the fields.

3. Another aspect of the buses.

4. Picking green "California" chile in a field near Mesquite, New Mexico.

5. Same as 4

6. Recruitment site in Southside El Paso, Texas.

7. Workers arrive at midnight to the recruitment site.

8. Farmworker sleeping at the recruitment site.

9. The Ortiz' family living in their car.

10. Farmworkers living under the bridge that conects Hatch, New Mexico with highway 25.

11. Cooking and eating in the same place.

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1
INTERNATIONAL
TEXAS
PRIVATE BUS
U42-769

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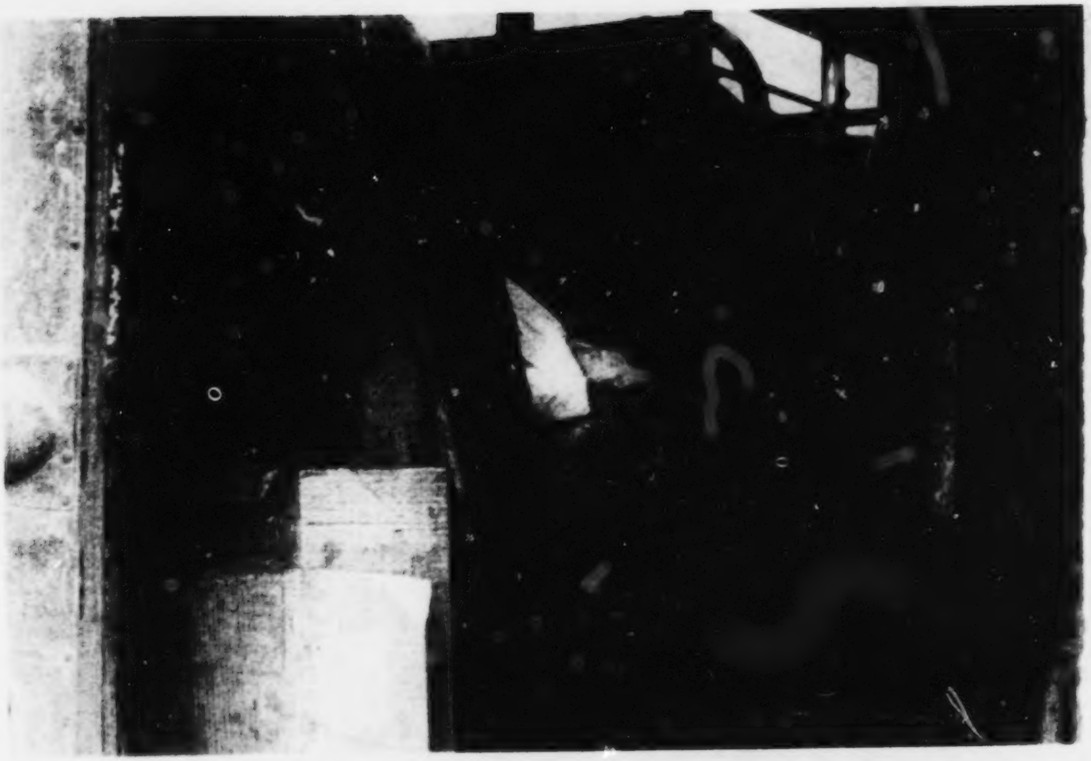

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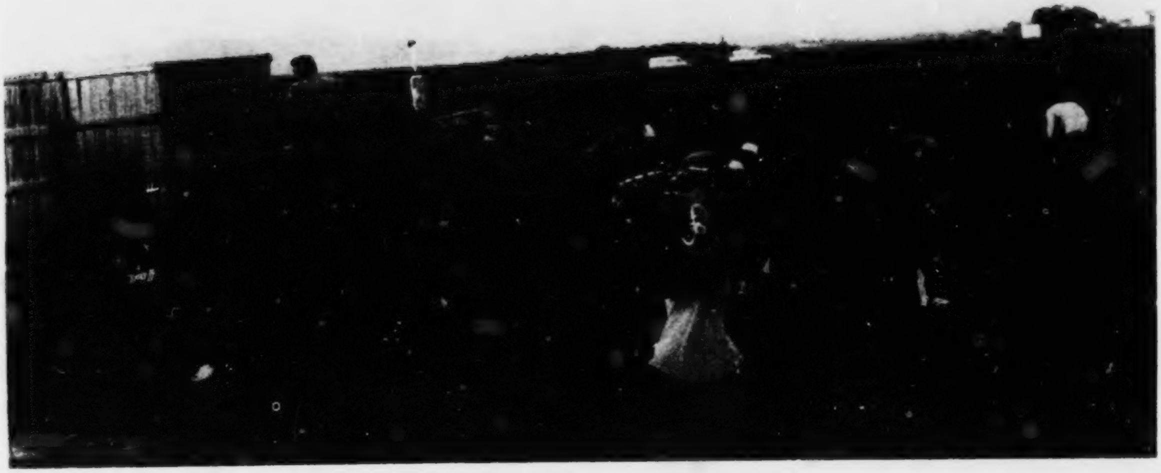

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Recruitment site for Agricultural workers in southside El Paso, Texas.

Farmworker sleeping while waiting for the farm labor contractors at the recruitment site.

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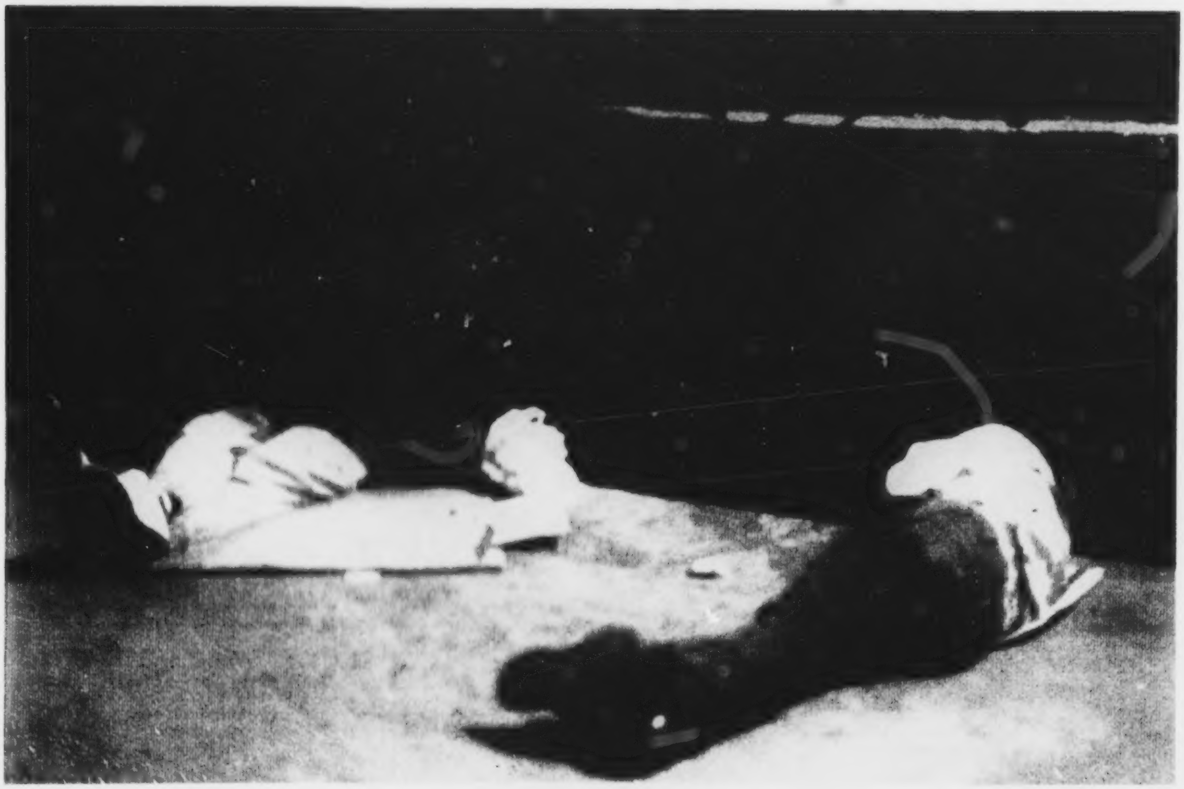

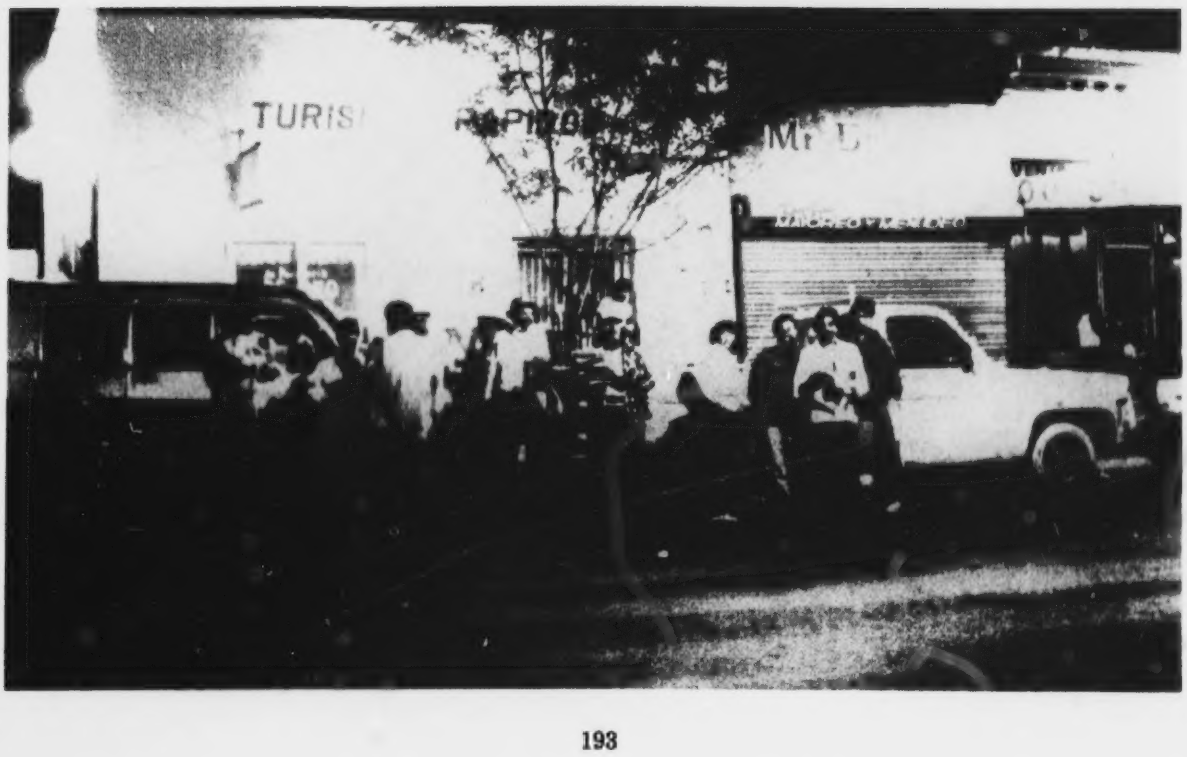

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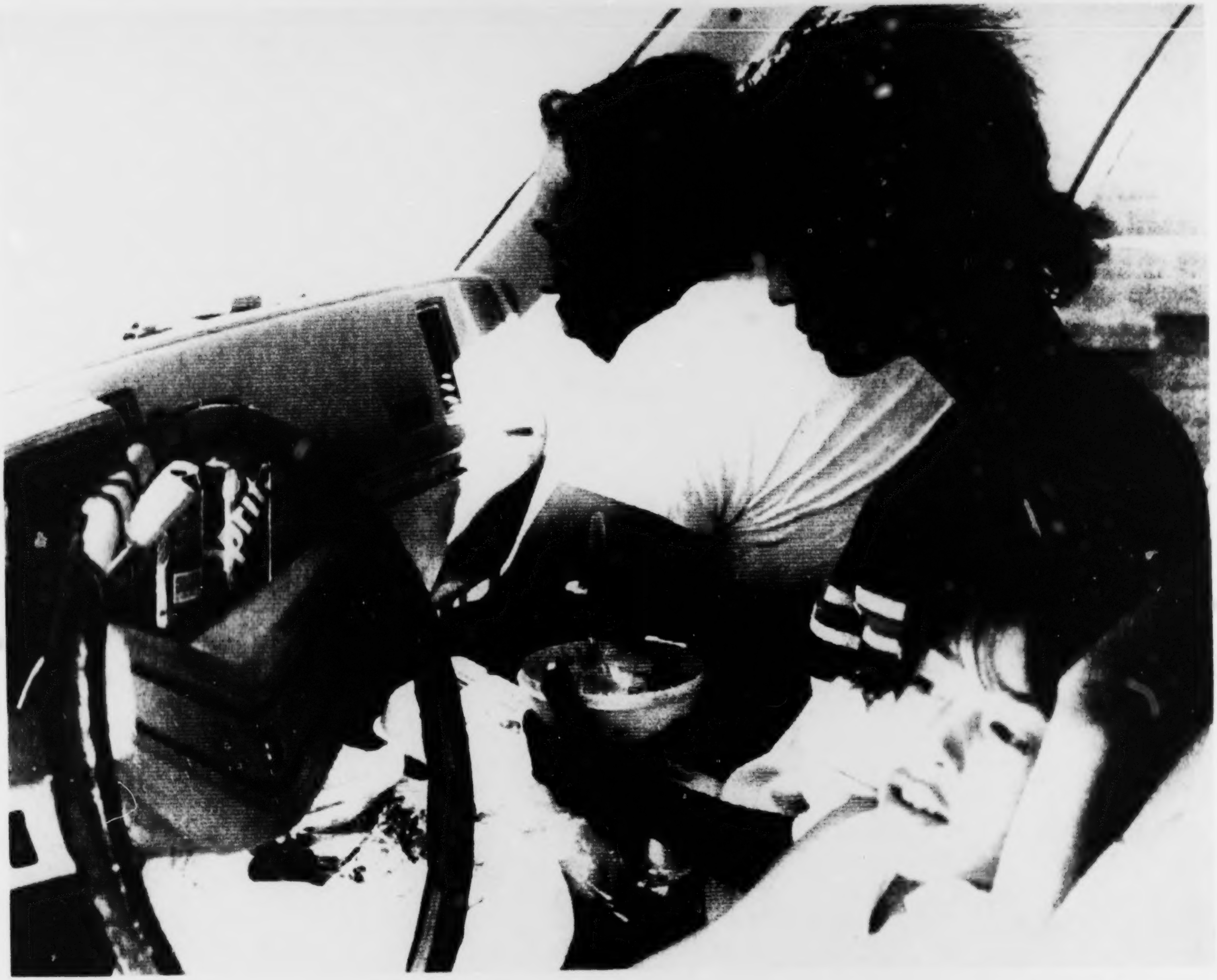

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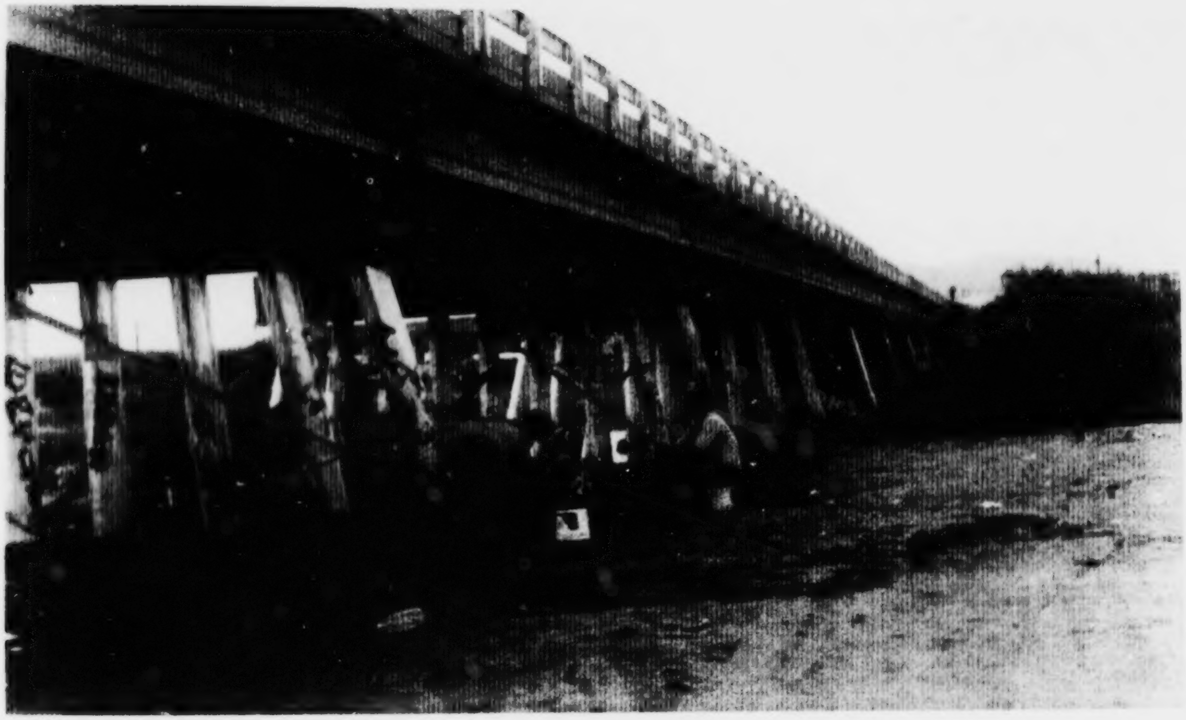

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TESTIMONY TO THE COMMISSION ON SECURITY AND COOPERATION IN EUROPE

by Ed Kissam

Introduction

Over the past 15 years, I've been involved in farmworker issues --in the early 70's focusing on health services and the problems of pesticide exposure and in the late 70's working with employment training programs serving farmworker youth. In the mid-80's I directed a national study of vocational rehabilitation services for farmworkers. From 1989 through the present, I have been involved in a series of case studies of the farm labor market and farmworker "homebase" communities in quite diverse areas of the United States -- in South Florida, on the Delmarva Peninsula, in New Jersey, in Southwest Michigan, in South Texas, in Central California, and in Central Washington.

Today, I would like to outline, very briefly, some of the demographic, sociocultural, and economic factors which enter into understanding and addressing the situation of migrant farmworkers in the United States.

A critical recognition, of course, is that U.S. labor-intensive agriculture is not monolithic -- it is tremendously diverse, a mosaic of tremendously different modes of production, employment practices, and different worker populations. These variations give rise to a corresponding diversity in the "human dimensions" of the social, economic, and legal environment in which migrant workers live and work. However, having recognized diversity, I would like to focus primarily on some overarching patterns.

Employment Security

My research (with my colleagues, Anna Garcia, David Runsten, and David Griffith) on farmworker forces us time and time again to recognize that the central problem faced by migrant and seasonal farmworkers is that of employment security. Farmworkers' real wages are stagnating or falling, but are still better than those in"low skill" occupations in immigrant-dominated non-agricultural work. However, chronic underemployment and unemployment result in annual earnings which place virtually all farmworkers and their families deep into poverty. Migrant and seasonal farmworkers face two distinct problems -

- seasonal unemployment during the off-season and unpredictable unemployment or underemployment during the peak harvest season.

Even when all able-bodied family members work, virtually no farmworker families are able to emerge from poverty. In 1989, a lone male migrant working on their own in Central California averaged $4,005, and $5,213 in South Florida. South Texas workers averaged only 6.6 months of farmwork during the year (and all experienced some degree of underemployment during the time they were working). Although families with multiple workers earned more, they remained in poverty, usually because they had children to support. For example, in South Texas, the typical migrant nuclear family of 4.2 persons had an annual income of $6,823.

Migrants come from labor markets with very high levels of unemployment and migration entails opportunity costs. Migrants who travel northward to summer work cannot simply walk into jobs which are waiting for them when they return to their homebase community in the late fall. Almost all seek to supplement their farmwork earnings in the off-season but most have only limited success in making their jobs dovetail perfectly.

Peak season underemployment is, in my view, perhaps the most challenging problems to confront... During the peak season, adverse crop conditions, bad weather, or bad market conditions can result in periods of extremely limited work for fieldworkers. These create the real crises. Some fairly typical cases (using pseudonyms) from our field research:

- Rufino Cendejas a middle aged Oaxacan migrant making $114 a week during the height of the Washington asparagus harvest because cold weather slows the growth of the spears. The problem is the harvest lasts eight weeks at the most, yielding him earnings not likely to exceed $1,000 in this "major" harvest activity.

- Pedro Duran and his sister, pickle pickers in Michigan making $246 a week between the two of them for picking 9,138 lbs. of pickles between the two of them. The problem is the harvest lasts only eight to ten weeks, yielding this family of two an income of about $2,200 in the major harvest they work in.

- Elogio Martinez and his two friends, apple pickers in Michigan who made $3 each the day I interviewed them, because the orchard where the crewleader had brought them had fireblight and allowed the three young men to pick only one bin of apples during the entire day. Elogio and his friends cannot at this rate make enough money to return home.

The National Agricultural Worker Survey (NAWS) shows that the findings of our recent regional case studies can, by and large, be generalized. Underemployment is a national problem, not simply a problem in some labor markets. The average earnings from farmwork reported by seasonal agricultural services workers (including some supervisory and managerial workers) was $6,500 per year for an average of 141 days of farmwork a year. Our research shows similar numbers of days worked per year.

"Too many workers, not enough work" is no longer an occasional complaint. It is now a universal experience. This is not illegal and not the result of inadequate enforcement (although it may be seen as the result of non-enforcement of employer sanctions), it is the result of a dysfunctional system -- a labor market which is chaotic. In the strictest sense of the term the combination of chronic underemployment and massive worker surpluses does not constitute "worker abuse". Yet, at the same time, it is arguably a violation of workers' human rights -- at least if we are to believe that, in some sense, contemporary American society has the responsibility to allow a willing worker a means to make enough to live on and, ideally, to also provide his or her children with basic sustenance.

The current terms of employment offered U.S. fieldworkers give rise to human rights concerns primarily because the extremely prevalent practice of payment based on a piece rate is, essentially, a deceptive, contracting procedure (remembering that the average farmworker spent less than six years in school.) Piece rate contract agreements provide workers an inadequate basis to determine whether working a harvest will provide them earnings which will allow them to survive. Low crop yields, delays in the harvest, late season slowdowns in harvesting may reap havoc with farmworkers' economic strategies -- even though piece rates paid are exactly as stated. Farming is, indeed, a risky business, and the practice of piece rate contracting insures that farmworkers bear the major burden of risk but reap none of the benefits.

From the perspective of my research, effective regulation will need to address the challenging and complex issues as to what an industry's responsibilities may be to its workers in terms of "right to know" provisions as to what is involved in a given employment agreement or, if the industry is not responsible, to determine what the public sector's responsibility is to provide improved levels of employment security.

Housing, Payment for Rides to Work, and Net Earnings

With average earnings in the order of $150 per week during the periods when he or she is employed, standard housing is no longer affordable for the typical farmworker . Our field research and that of other post-IRCA researchers shows that sub-standard housing is not an occasional problem for farmworkers, it is the norm.

Crowded housing is a problem, but it is also necessary to farmworkers' survival. One of the most surprising findings from conducting research in areas as diverse as Florida, Michigan, California, and Washington is the extent to which lone male workers succeed in controlling their shelter costs by living in tremendously crowded situations--for an average cost of $18 per week in the Yakima Valley, $25 a week in Immokalee, Florida, or Parlier, California.

However -- it is important to clarify what is meant by crowded housing. In Michigan, two extended family groups numbering seventeen persons shared a two-room cabin; in South Florida, eight to ten persons commonly shared a trailer; in Central California, eight men we interviewed shared a one-room cabin, more than half of which was filled with bunkbeds. In another two-bedroom house rented out to nineteen lone males, the nine men sleeping on the living room floor had not had a chance to meet the men quartered in a bedroom which was partitioned off from the rest of the house.

In Immokalee, workers who slept in the surrounding orange groves were charged $1 for showers at the general store. In Parlier, one homeowner rented out his garage where the number of men varied from ten to fifteen; in another Parlier home, men paid rent to camp in a local resident's backyard. In Immokalee, a couple with a newborn baby separated their living space from that of the seven young men with whom they shared a trailer with blankets. In Michigan, an older farmworker traveling with his teenage son was amenable to sharing a one room shack with an unrelated couple but complained to us finally that having to share a bed with his son was too much.

In Southwest Michigan, where traditionally, housing has been provided at no charge to migrant workers, the trend is now to charge for rent and utilities -- an average of $30 per week.

In areas where workers are charged, also, for rides to work, it is common for a *raite* (ride) to cost $4-5 per day or $25-30 per week.

At an average earnings level of $150 per week, a migrant worker, having paid a relatively modest $25 per week for housing and $25 per week for rides to work will be left with somewhere in the order of $100 net pre-tax income per week --- the amount he or she would make working in a standard 40-hour a week job at $2.50 per hour, slight more than half of the minimum wage. During good weeks or in well-paid crop tasks such as the Washington apple harvest, the average workers' earnings will be as high as $250 per week -- $200 net, or $5.00 per hour. In bad weeks, a worker's net earnings will, of course, be either negligible, or negative.

It is not surprising to find that the U.S. farm labor force is not replenishing itself. To survive as a "professional farmworker" it is necessary to adopt a unique economic strategy. At the minimum such a strategy requires that all able-bodied teenagers and adults work the most hours they possibly can rain or shine, whether they are sick, healthy, or pregnant, whether their children are sick, in need of attention, or healthy. Such a strategy requires that one make arrangements to share crowded living quarters with family, friends, or strangers. It requires tremendous investments in unpaid labor repairing cars, mending clothes, and seeking assistance for one emergency or another as virtually no fieldwork jobs include fringe benefits such as health insurance. Immigrant workers, used to networking, used to crowded housing, can, with difficulty adapt; virtually no worker in the American mainstream can.

While immigrant farmworkers are strongly attached to the agricultural labor market, their children are not. Having talked to farmworker teenagers throughout the U.S., both those who worked with their parents in the fields and those who were simply students, this group most closely linked to farm labor uniformly rejected the possibility of continuing in farmwork. The young U.S.-born adults who are working in the fields almost universally consider this their employment of last resort. They include high school dropouts, single women with children, and, in 1990, displaced workers from low-wage urban manufacturing and construction jobs. They are desperate, and often bitter. This is not the American Dream they heard about in school.

Migration and The Changing Composition of the U.S. Farm Labor Force

U.S. agriculture has always relied on workers who were "pushed" out of underdeveloped rural areas with tremendously high unemployment rates to meet its labor needs. The circumstances which gave rise to streams of "Arkies" migrating to Michigan in the 1930's, "Okies" migrating to California, and African-Americans from the Deep South migrating north along the Eastern Seaboard prior to World War II, are the same circumstances of poverty which have given rise to powerful streams of international migration from Mexico to the U.S.

What is different now in 1992 is that Mexican, and to a limited extent Guatemalan, workers make up the primary labor supply for virtually the entire U.S. While the California and the Northwestern U.S. have relied on Mexican and Mexican-American farmworkers for decades, "recent Latinization" regions of the U.S. such as Maryland, Delaware, and western New York have now come to rely, also, on Mexican workers. According to the National Agricultural Worker Survey, at least two-thirds of all seasonal agricultural services workers (including supervisors and managers) are Hispanic and 80% of the Hispanic workers are Mexican-born.

Fieldwork -- that is, non-managerial, non-technical work, in fruit, vegetable, and horticultural production is performed almost entirely by immigrant workers. The most U.S.-born workers we found in any labor market was in South Texas where almost half the workers were born in the U.S. In Central California and Michigan, only one in five workers were U.S.-born, while in Central Washington , only 4% of the labor force was U.S. born.

Northward migration is, also, becoming more ubiquitous as an economic strategy for Mexican rural workers. Historically, the bulk of Mexican migration to the U.S. came from a few "core sending areas" in central and northeastern Mexico. In the 1980's and 1990's we are seeing increasing representation of migrants, many of them indigenous minorities -- most notably Mixtec and Kanjobal Maya workers -- from mountainous, remote areas of Mexico and Guatemala. New migrants also include a small number of displaced urban workers.

Mexico-U.S. migration flows in the post-IRCA period are increasing, not decreasing. The resulting problem is a simple but painful one -- too many workers, too little work, no housing. Increased in migration flows and increased competition for scarce work, make farmwork less attractive, increasing the rate at which experienced workers leave farmwork -- creating an immigration treadmill.

Implications for Immigration Policy

What does this mean in terms of U.S. immigration policy? Quite simply, it means that the United States policy must recognize that we already have a transnational labor market and that the functioning of international migration networks based in Mexico and Guatemala simply cannot be transformed by unidimensional initiatives such as IRCA. Migration networks, once they are initiated by structured recruitment of workers, assume a life of their own, and are tremendously resistant to governmental control..

There are important reasons why the United States and Mexico should both seek to decrease the level of current migration flows. From a structural perspective, high flows of inexperienced migrants means a more chaotic labor market, and more human suffering -- migrants stranded without a way to return home, no housing or impossibly crowded housing. But solutions will not emerge until we abandon a policy oriented toward ineffective efforts to control migration and adopt a policy oriented, instead, toward less direct, but more effective efforts to manage migration based on attenuating both "push" and "pull" factors which draw Mexican migrants into the U.S. farm labor force.

The first step toward achieving the CSCE objective of "orderly movement" of workers is to build policy on a clear understanding of migration dynamics. For example, one of the tragedies of IRCA's SAW legalization program is that, in denying legal status to the spouses and children residing in Mexico, the law encouraged back-and-forth migration to Mexico which has probably resulted in higher post-IRCA migration flows than would have resulted from a policy designed to promote family unity and to encourage social, economic, and cultural assimilation. A genuine welcome to immigrant workers, a serious effort to integrate immigrants into the life of the communities where they have come to reside is a critical element in moving toward a win-win solution for all.

Investments in immigration control mechanisms -- increased staffing of the Border Patrol , improved surveillance technology, the proposed ditches, electrified fences and such, are not only more inhumane than other approaches to managing migration flows, they are doomed to be ineffective. A comprehensive, integrated policy, designed to make incremental changes -- to effect modest decreases in the rate of farmworker turnover, to provide modest improvements in employment security designed to extend the length of current farmworkers' labor market participation, a binational effort directed to migrant sending areas to inform potential migrants of the realities of the U.S. farm labor market, skillful investments in Mexican rural economic development-- can be more effective in stemming migration flows than even the costliest Draconian control schemes. Investments in border control -- justified primarily on the basis of their emotional appeal -- are simply not affordable.

Implications for Regulatory Policy

What does this mean with respect to the human dimensions of the problems migrant farmworkers face? It means that the migrant farmworker population is increasingly inexperienced and vulnerable one -- because the United States is for new migrants an unknown country in terms of legal and social environment. A critical element in any effective strategy for regulatory reform will, of necessity, be educational efforts to inform workers of their legal rights and to assist workers in maneuvering through the tremendously complex environment which an information-based society represents in terms to a worker who has grown up and only very slightly educated in a rural, agrarian society.

Without increasing workers' awareness of their basic human rights (including awareness of areas where the existing legal framework does not provide them effective protection), it is very unlikely that any measure of regulatory reform is feasible. Without making regulatory agencies significantly more "user-friendly", without establishing some bridge for communicating with the population regulatory agencies are nominally to protect, it is difficult to see how effective enforcement can be affordable.

Spanish-speaking staff are, of course, a necessity, but staffing changes are not sufficient.. Easier access is needed but new office locations should not be expected to solve the problem. If agencies are to be effective, some form of "one stop shopping center" for resolving workers' problems is absolutely essential. More than anything else, the confusing boundaries of different agencies' jurisdictions, bureaucratic procedures, etc. make it unreasonable to expect farmworkers to cooperate with regulators in enforcing even current laws regarding working and housing conditions.

Given limited fiscal resources, targeted enforcement is essential. Because inexperienced workers fall under the control of labor market intermediaries, these key players -- farm labor contractors, crewleaders, and raiteros deserve special attention. Once an inexperienced migrant worker without connections leaves his home village he must rely on a labor market intermediary -- a *raitero*, a crewleader, or a farm labor contractor for virtually all of his interactions with the society. It is not surprising that the National Agricultural Worker Survey shows farm labor contractor employees in "recent latinization regions" to have the lowest annual earnings from farmwork of any worker group -- $3,500 per year. It is reasonable for regulatory enforcement effort to target labor market intermediaries, but it is not reasonable to expect such enforcement to be effective until there is some means to maintain a presence in the communities where farmworkers live and work.

The Need for Innovative, Collaborative, Solutions

Ultimately, it is increasingly clear that no effective solutions to the problems of migrant farmworkers can be found until a new mode can be found for private-public sector collaboration in addressing the problems of underemployment, economic insecurity, sub-standard housing, and other issues.

One of the most striking observations from our 1991 case studies in Michigan and Washington is that there is a great deal that the industry itself can do and that individual agricultural employers are already doing to improve the current situation. One of the interesting findings is that it is possible to take significant steps forward without affecting a producer's bottom line. To take simply three examples -- downsizing the peak harvest workforce at a farm, improving quality of supervision, and restructuring operations to decrease seasonal unemployment -- each of these strategies seems to improve profitability.

What is equally striking is that there has been little commitment in either the private or the public sector to finding collaborative solutions to problems. Where there has been such collaboration, there have been truly significant successes, for example, in collaborative efforts to improve the availability and quality of housing.

The working conditions faced by migrant farmworkers are currently extremely problematic and they are not getting better. They are deteriorating. Improvement is possible but only when relations between farmworkers and their employers cease to be regarded as a zero-sum game in which one group's gains inevitably imply the other group's losses.

Collaboration is difficult but possible. It is essential that dialogue involve all key stakeholders. Collaborative efforts must cut across industry-worker divisions, ethnic lines, and geographic boundaries, both regional and international ones. Solutions are possible but only when it is recognized that our standard models of the world serve us only poorly in understanding and addressing the issues which confront migrant workers.

Implications for Service

Service programs designed to serve migrant farmworkers must become more flexible and find innovative solutions which go beyond the usual "information and referral" networks which now exist. Migrant farmworkers' only resource is their time. While desperately poor, they cannot afford the time to wait in waiting rooms in search of free or reduced-price services.

Programs must be flexible and adapt to the concerns and schedules of those they serve The key focus in the adult learning programs for migrants I am now working on is the principle of "anytime, anyplace, any pace" learning. The content of "life skills" curricula must be real-life problem-solving -- not learning to read bus schedules, but learning to check their earnings against a supervisor's estimates, when they find themselves in a dispute. Housing is critically needed not just in "upstream" labor demand areas where migrants travel to work, but in "homebase" communities. Health services must not be limited to primary health care but provide effective treatment for chronic, disabling conditions.

At the heart of this is the need to understand that even improvements in service delivery systems, even a more effective regulatory enforcement system, will not be able to make fundamental changes in the welfare of migrant farmworkers, until labor-intensive agriculture in the United States commits itself to changing the working conditions of migrant farmworkers. Such a commitment -- which is also a commitment to developing a quality, highly productive labor force -- can, in reality prove to be a "win-win" situation for both migrant farmworkers and their employers.

FORMAL CHARACTERISTICS OF THE FARM LABOR MARKET:

Implications for Farm Labor Policy in the 1990's

by Ed Kissam

Introduction

Over the past several years, my colleagues, Anna Garcia, David Runsten, and I have been exploring the implications of our observations in the Farm Labor Supply Study [1]and the case studies we conducted for the Commission on Agricultural Workers regarding farmworker decision-making and the dynamics of farm labor recruitment.[2] These ethnographically-oriented case studies have provided us opportunities to explore the dynamics of the farm labor market in more depth than would have been possible using ordinary survey techniques or by relying on standard administrative data sets.[3]

One of the most interesting questions which arise, from a structural point of view, is why the contemporary farm labor market has so many labor market intermediaries when there is a fairly predictable demand curve for an undifferentiated pool of unskilled workers and there is a chronic surplus of such workers. What roles do mayordomos, crewleaders, farm labor contractors, and the Job Service play? And to what extent are these roles structurally similar or, conversely, fundamentally differentiated? Today, I would like to review for you the ways in which some of the formal characteristics of the farm labor market serve to shape recruitment mechanisms and to explore some of the policy implications of our research in this area.

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[1] Ed Kissam and David Griffith, The Farm Labor Supply Study: 1989-1990, Micro Methods' Final Report to Office of Policy, U.S. Department of Labor, December, 1991. Vol 1 of this study synthesizes the findings from case studies of four labor supply communities -- Parlier, California; Weslaco, Texas, Immokalee, Florida, and Mayaguez, Puerto Rico -- and corresponding labor demand areas in Southwest Michigan, Central California, the Delmarva Peninsula, and New Jersey. The actual case studies are published as Vol. 2.

[2] The relevant Commission on Agricultural Workers studies are Ed Kissam and Anna Garcia, "The Changing Composition of Southwest Michigan's Farm Labor Force: Indirect Impacts of IRCA" and Ed Kissam, Anna Garcia, and David Runsten, "Yakima Valley Apples and Asparagus: Interactions Between Market Forces and Migration Networks After IRCA".

[3] This effort has benefited tremendously from the many insights provided by Richard Mines of the Department of Labor who advocated strongly for adopting ethnosurvey techniques in the FLSS, who established the overall research design for the CAW case studies and who has graciously engaged in ongoing dialogue regarding the implications of our own research and the ongoing research effort via the National Agricultural Worker Survey.

Structure of the Farm Labor Market

Conceptual or formal models of labor market functioning which explain the functioning of the labor market only in terms of matching labor demand specifications with worker competencies (i.e. context-independent models), are, it seems, inadequate to explain the dynamics of the contemporary farm labor market.[4]

In order to explain the observed dynamics and social institutions of the contemporary labor market, it is essential to adopt "context-sensitive" models of labor market dynamics. These models relate employers', workers', and labor market intermediaries' behavior not only to a snapshot of demand but to year-round and long-term game plans to maximize economic benefit and minimize the risk of economic losses. Not surprisingly, an analysis of the structure and the dynamics of an articulated farm labor market have important implications for public policy regarding the role of labor market intermediaries, including in-house recruiter/supervisors (mayordomos), farm labor contractors and crewleaders, and the employment service.

In examining labor demand, three recognitions are critical. The first is by no means new; that is, that the farm labor demand curve is characterized by tremendously sharp peaks and valleys[5]. The second is that there are significant uncertainties regarding the rate at which labor demand will change (i.e. the rate at which the slope of the demand curve changes which, in turn, defines the "shape" of the demand curve) and the exact spacing of "spikes" in the demand curve. The final recognition is that in local labor markets with either multiple cropping patterns, highly variable micro-climates, or both, the risk of

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[4] The past 10 years have seen tremendous advances in using systems analysis techniques to analyze complex dynamic systems in realms as disparate as stock market behavior, global climate modeling, population biology, epidemiology, and fluid dynamics. Even in cases where actual modeling is infeasible, it is possible and desirable to give careful attention to the type of model required to described observed patterns of system dynamics.

[5] The most comprehensive treatment is to be found in John W. Mamer and Alexa Wilkie, "Seasonal Labor in California Agriculture: Labor Inputs for California Crops", EDD, December, 1990. This document shows not only wide variation in year-round labor profile but also significant regional variation even within California. From the perspective of labor recruitment strategy, the existence of multi-peak demand crops (e.g. peaches, apples) presents particular challenges as does recruiting in multi-crop labor markets with overlapping demand.

"transient" labor shortages of sufficient magnitude to be economically significant to producers (either in terms of actual crop loss or in terms of initiating "auction-style" bidding-up of prevailing wage rates) is substantial and extremely difficult to predict.[6] Uncertainties regarding the timing of labor demand spikes and the exact "shape" of the demand curve and the economic risks associated with labor supply-demand mismatch are, we believe, the fundamental force which gives rise to the characteristic strategies utilized both by employers in recruitment and by workers in reacting to recruitment efforts.

In analyzing labor supply, one of the most consistent themes emerging from post-IRCA research turns out to be the recognition that, first of all, the contemporary farm labor force is not simply the aggregate of many individual producers' demand for unskilled harvest labor. Instead, the labor force at virtually any establishment can be distinguished in terms of functional arrangements regarding work even when there appear to be only fuzzy boundaries between work tasks performed -- distinctions between supervisors, core workers, regular returnees, and casual peak season "fill in" workers.

The existence of a workforce consisting of multiple tiers of workers with varying degrees of attachment to the employer is a strategy designed to maximize ability to respond to changing labor demand at minimal cost. At the same time, the internal structuring of the workforce is affected by family constellation -- distinguishing "types" of workers such as "family migrants" and "lone males", gender, and age. And finally, the workforce is structured by extended family and village network relationships and extent of experience in the U.S. farm labor market.

The extensive reliance in U.S. agriculture on labor recruitment based on extended family ties has often been considered to be, in some sense, anachronistic, "backward" -- a mechanism deserving to be replaced by more formal, "modern" personnel management practices. In actuality, extended family network recruitment accounts, in large measure, for the fact that the farm labor market is as stable as it is. Network recruitment addresses employers' concerns by generating moderate surpluses of workers (most notably, the underemployed relatives of regularly returning workers) while addressing workers' concerns by maximizing the likelihood that workers will have access to some amount of work (via family connections).

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[6] While the dynamics of these types of dynamic systems can be described in principle, actual predictions of the behavior of complex systems which are highly sensitive to changes in input variables (e.g. weather) are very difficult. The tightness of linking between variables in such dynamic systems as well as the levels of changes in the system considered to be "significant" are critical in determining the type of strategy necessary to respond to variations in the system configuration.

Structurally, network recruitment serves both to provide a built-in mechanism for rapid recruitment of additional supplies of labor while maintaining a surplus pool of labor to be drawn down on during critical periods when rapid increases in labor demand outstrip the recruitment systems ability to gear up in response to increasing (and possibly temporary) demand. In the most general terms, network recruitment dampens the volatility of the farm labor market by placing constraints on employers' ability to hire workers, supervise them in an arbitrary fashion, or lay them off. At the same time network recruitment constrains workers' ability to have confrontations with a supervisor (who is often a relative) or leave an employer in search of higher wages. Network recruitment, in effect extends the scope of mutual obligations which characterize network interactions to bind employers and their workers together. The result is that both employers and workers buy into economic strategies that may not result in maximum returns (the highest possible wages for workers or the lowest possible labor costs for the employer) but which serve to offset the risks of labor market instability (unemployment for workers and labor shortages for the employer).

The striking increase in agricultural employers' reliance on farm labor contractors (FLC's) stems, in part, from the limitations of extended family network recruitment.[7] The extended family network is socially defined not so much in terms of actual biological relationships as in terms of the scope of relationships based on *compadrazgo* which define relationships of mutual reciprocity.[8] As such it has a finite top limit -- a single family network can only recruit enough workers to meet the needs of a moderate-sized farm -- a group of perhaps 30-50 workers. When establishment labor needs exceed this limit, the extended family recruitment network tends to lose effectiveness.[9]

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[7] Other motivations for reliance on FLC's are well-known -- the desire for a buffer against liability, the desire to not become involved in personnel policy, the desire to secure a labor force consisting primarily of "lone males".

[8] Our description of the "rules of the game" of extended family networks is heavily indebted to Larissa Lomnitz's pioneering research on networks of rural Mexican families immigrating to an urban barrio in Mexico City --Networks and Marginality, Academic Press, 1977,. Oscar Lewis' work also provides a wealth of descriptive information on network functioning and the boundaries and strength of mutual reciprocity.

[9] A great deal more ethnographic research is needed in this area. Our study of Central Washington apples and asparagus reveals the existence of quite large family and village networks making it possible for a

Farm labor contractors and crewleaders, while relying extensively on family and village networks for recruiting workers can meet the needs of larger establishments by promising a modicum of support to offset the risks encountered by migrant workers (the likelihood, if not guarantee, of employment at a destination; access to loans, assistance in emergencies). However, farm labor contractors, crewleaders, and *raiteros*, while mimicking portions or all aspects of the extended family network support system's functioning and providing workers who have weak network ties with a form of artificial support network, are not bound by the rules of the game of actual family networks.[10] This lack of accountability, in turn, makes it possible to recruit larger surpluses of workers, to exploit those workers more routinely, and, in general, to be less accountable to the worker.[11] It is particularly important to recognize that a key structural function fulfilled by farm labor contractors', *raiteros*, and other labor market intermediaries is to incorporate recently-arrived non-authorized migrants with immature family and village networks into the U.S. farm labor force.[12] While the levels of support (access to work, housing, supervision, wage rates) provided by FLC's to recently-immigrated, non-authorized workers are inferior to the levels of support provided by mature migrant networks, the

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single mayordomo to recruit a very large number of workers. Clearly, the maturity of migrant networks, current flows of international migration, degree of nortenizacion, etc. affect the viability of network recruitment. Our Michigan research shows how reciprocal networking in which neighboring farmers "borrow" workers from each other facilitates very large-scale village network recruitment. The social and economic environments in which networks function modulates their functioning but we have not yet had an opportunity to explore an adequate range of conditions.

[10] Crewleaders we interviewed in the Central Washington asparagus harvest, for example, informed us that their usual networks of extended family and neighbors who had regularly returned to the asparagus harvest for many years would no longer come since they were aware that the asparagus beds' productivity was declining. Consequently, the crewleaders needed to fill out their crews with inexperienced unemployed workers who would migrate only because they didn't know how uneven their earnings in asparagus would be and non-authorized workers recruited "in-stream" who had no employment alternatives. Crewleaders discharged their obligations to family members and close friends by assigning them the most productive rows of asparagus.

[11] In recent discussions (October, 1992), regarding the changes in Mexican network recruitment over the past 40 years, my informants in Immokalee, Florida distinguish sharply between traditional crewleaders, *troqueros*, who were accountable to a constituency made up of hometown relatives and neighbors in the lower Rio Grande Valley, and contemporary *contratistas* who are not accountable in the same way to the workers they have recruited.

[12] NAWS data confirms ethnographic observations on the key role played by FLC's in incorporating newly-arriving pioneering migrants into the U.S. farm labor market, often by supplying workers to "recent Latinization" regions where mature extended family and village networks have not yet developed. For details on this process, see Sandra Amendola and David Griffith's study of the Georgia and South Carolina labor markets for the Commission on Agricultural Workers.

pioneering migrant with inadequate network contacts in the U.S. labor market has few options.

In summary, network recruitment, plays a critical role in dampening farm labor market volatility by providing both workers and employers a means for structured risk management -- a form of insurance protecting employers against labor shortages and protecting workers against the possibility of remaining without work. Network recruitment accomplishes the following important functions. It:

- decreases in-season turnover by maximizing the chances a job will, in fact, be awaiting a worker who migrates,
- maximizes the chances he or she will accept that job since information on wages and working conditions is reliable
- minimizes (but does not eliminate) the chances of an explosive blow-up between worker and supervisor,
- provides the employer with a buffer against labor shortage during sharp spikes of labor demand
- provides the worker with a modicum of employment stability in the form of make-work, referrals to members of an employers' network
- provides the worker with a "safety net" in the form of low-cost or free housing in the event of lower-than-expected amounts of work materialize.

Like most insurance transactions, network recruitment involves costs. Employers relying on network recruitment must accept some responsibility for guaranteeing stable employment, while workers participating in network recruitment are precluded from seeking out higher wage offers. In general, both workers and employers participating in network recruitment suggest the situation is a "win-win" one. However, I do not mean to suggest that network recruitment is without problems. The risks of "things not being as they should be" at a distant job are never entirely eliminated and network recruitment sometimes results in workers who are not highly productive since they may have been recruited more on the basis of network connections than ability.

From the worker perspective, network recruitment is highly efficient because it maximizes the available information on working conditions and likely earnings (which are difficult to determine based on wage rate offers alone) and decreases the likelihood that a job offer is spurious. It also implies some level of support in case the worker experiences one crisis or another. Such support can include "coaching" to improve a given workers' productivity in performing an unfamiliar crop task, support in negotiating with an employer about remaining in housing during a slow period, and negotiating support in the event of conflicts with a supervisor.

Fairly ambiguous-sounding discussions among relatives, *compadres*, or *comadres* about what is "most convenient" mask the complex balancing of various considerations on the part of a network representative who is recruiting workers to go with them and, on the part of a prospective migrant, about which of several possible options yields the best returns. Decisions about what is "convenient" may well incorporate a full set of understandings about reciprocal obligations, including housing arrangements, responsibility for child care, cooking, and transportation.[13]

From the employer perspective, the strongest point of network recruitment has to do with the link between worker recruitment, worker supervision, and worker stability. Family-based network recruitment also provides for long-term workforce planning. In the most stable networks, growers can be advised that some workers from the extended family have decided to stop coming north, are getting married, or are going to be in school. Workers can be advised if a grower decides to increase or decrease acreage in production, or change cropping patterns or if a neighboring grower has solicited workers.

Family migrants also provide an important "buffer" in terms of labor supply. When labor demand peaks, all family members can work long hours. When demand is lower, some family members (e.g. mothers of young children, or young teenagers) will be happy to work less or not at all. In contrast, a labor force consisting entirely of heads of household exerts constant pressure on an employer to maximize every workers' hours and days of work.

Finally, network recruitment serves to provide both employers and workers with incentives toward a variety of behaviors which serve to stabilize the labor market --

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[13] Allocation of household tasks such as cooking, cleaning, and child care to household members who would earn less in the fields or who don't want to work in the fields is an efficient means of maximizing the family's earning power. However, in some cases, the assignment of household chores to women who, then, also work in the fields puts tremendous stress on wives. See Allen Burns' ethnographic description of recent Guatemalan immigrants' household life, "Immigration, Ethnicity, and Work in Indiantown, Florida", (mimeo), 1988.

potential workers are screened by the family members who "invite" them to migrate, employers are motivated to be responsible in over-recruiting because news rapidly spreads within the network if workers who are "invited" to migrate don't in fact find employment, incentives and intermediaries to serve in negotiations when tensions arise can be found among long-term "trusted" workers charged with serving as labor market intermediaries.

Implications of Research Findings for the Role of the Employment Service in the Farm Labor Market

In the most general terms, our research in the Farm Labor Supply Study and our case studies in Washington and Michigan for the Commission on Agricultural Workers indicate that there are intrinsic formal characteristics of the farm labor market which make it structurally difficult for a system of formalized public sector to fill the role of labor market intermediary effectively or efficiently. Network recruitment, which is relied on by both agricultural employers and farm labor contractors is a highly structured response to the unique characteristics of the farm labor market.

While "informal" network-based recruitment, when used by farm labor contractors, can result in worker exploitation and mistreatment, it is essential to recognize that efforts to "rationalize" or "formalize" the farm labor market must address the same formal problems[14] which have given rise to the current the structured system of informal network recruitment.

In particular, whatever system of labor exchange is used must successfully cope with the problem of managing the risks of mismatch of labor supply and demand under conditions where demand changes rapidly and unpredictably and where workers constantly face the risk of underemployment.

In the following section I discuss several points to consider carefully in examining the practical implications of this perspective on farm labor dynamics and in analyzing policy options regarding the proper role of the Employment Service in the farm labor market of the 1990's and the coming century.

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[14] Richard Mines has adapted the term "caciquismo" which originally referred to abuse of power within village networks to refer to some of the aberrations to be found in network recruitment such as favoritism, arbitrariness, and abusive behavior toward workers.

1. The Interstate Clearance System (ICS) has low probability of success.

The Interstate Clearance System provides a mechanism to fulfill a need which exists very seldom, if at all -- i.e. the need to supplement a "local" labor pool with workers from another state. While the ICS might conceivably play a role in responding to slowly-developing large labor shortages, it is doomed to failure in attempting to respond to "transient" labor shortages. The "natural" mechanisms of farm labor recruitment serve to meet labor demand needs more efficiently than the Employment Service can because informal network recruitment can provide stronger assurances to potential workers considering migration to a "risky" destination and because they can move more rapidly to broker employer-worker arrangements. Successful brokering in such conditions requires, among other factors, close linkage between labor recruitment and labor supervision -- a condition which it is virtually impossible for the Employment Service to meet.

There is no practical reason to expect that medium-term expectations of labor shortages which give rise to ICS job orders have any empirical validity (since supply and demand change too rapidly to predict whether there will, in fact, be a labor shortage) and even less reason to expect that real-time recruitment will be performed more effectively through formal bureaucratic processes than through informal networks. The most dramatic cases of successful interstate clearance orders we have observed -- in the Central Washington asparagus harvest -- were cases where the federal-state bureaucracy "rubber-stamped" pre-existing traditional arrangements in which Texas-based *troqueros* recruited workers for large firms with better-than-average housing arrangements. The fundamental arrangements for worker recruitment were established in the 1960's, well before the NAACP v Brennan case and have continued since.

One of the failings of the ICS is that it cannot "guarantee" prospective migrants jobs. Consequently, the ICS cannot respond to migrant farmworkers' primary concern -- the risk that a prospective job does not actually exist. In fact, the ICS cannot even guarantee that the terms of employment are as represented. At the core of the ICS failure is the disclaimer at CFR 653.501 which states

> *...neither the ETA nor the State agencies are guarantors of the accuracy or truthfulness of information contained on job orders submitted by employers. Nor does any job offer accepted or recruited upon by the JS constitute a contractual job offer to which the ETA or a state agency is in any way a party.*

This disclaimer could best be put in perspective by noting that a farm labor contractor who recruited without guaranteeing the accuracy or truthfulness of a recruitment offer could be sued under AWPA and be liable for substantial damages. There would appear to be little reason to spend taxpayer dollars on supporting a parallel system of farm labor recruitment which cannot live up to the minimal legal standards applied to private sector farm labor contractors.

A fundamental proposition of an information-based economy is that successful brokering of virtually all distance transactions must have provisions to make the information broker liable for the consequences of their representations. If the ICS is to exist, it is essential that it be liable for any damages suffered by workers who entail opportunity costs in responding to job recruitment offers or even in basing their seasonal migrant itinerary on such representations when the job recruitment offer turns out to be misleading, is cancelled because a need no longer exists, or which lasts only a few days.

2. The role played by the ICS in processing H-2a requests is unnecessary and has extremely low cost-effectiveness.

Otherwise responsible farmworker advocates and Employment Service staff have argued that the Interstate Clearance System has an important role to play in blocking H-2a requests and "saving" jobs for U.S. farmworkers. Given the fact that U.S. agriculture is employing about an additional 150,000 non-authorized farmworkers each year, it is hard to envision how the elaborate game strategies used to block H-2a orders have much impact on wages and working conditions for U.S. farmworkers.[15] The argument that the ICS must be preserved to make the H-2a system work right is unfortunate evidence of an inability to establish priorities within the farm labor policy arena.

From a technical perspective, it is fairly clear that strong "positive recruitment" plans requiring H-2a requesters to utilize effective recruitment techniques in a local area, region, or state before processing an interstate clearance order is the strategy of choice. I, frankly, do not know what the legal subtleties of requiring a "prescriptive" recruitment strategy of potential H-2a requesters might be. If the Employment Service's legal authority to prescribe effective recruitment strategies is not strong enough now, they should be strengthened. The labor recruitment strategies of agricultural employers who regularly succeed in meeting their labor needs on their own are a great deal more complex than placing an ad in the newspaper. "Positive recruitment" should entail not the charade of a recruitment process but employer commitment to a long-term labor recruitment and management strategy.[16] If staff development is needed within the Employment Service, the staff development efforts might well be oriented to training staff as to what kinds of employer efforts in the realm of worker recruitment and management will be effective in filling job orders locally.

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[15] This estimate of increasing numbers of non-authorized workers is a fairly conservative one. The basic data are that a wide range of CAW case studies, as well as the NAWS, show a steadily increasing proportion of non-authorized farmworkers in the U.S. My estimate of 150,000 workers per year is equivalent to an 6% increase per year in a total labor force of 2.5 million workers, which appears consistent with a 1990 farm labor force in which 20-30% of the labor force is non-authorized. For data on regional variations see the forthcoming CAW report to Congress (CAW, forthcoming, 1993).

From a public policy perspective, the cost-effectiveness of a regulatory apparatus requiring the involvement of five or six high-professional staff to process a single job order which involves at most a few hundred workers when the U.S. farm labor market has chronic labor surpluses, is highly questionable. Assuming that ICS operations require approximately 50 professional person years of staff time per year, the charade in which an employer purports not to be able to recruit workers in order to get a favored "kind" of work costs the public sector approximately $3.0 million per year at a minimum. If we add to this the cost of a variety of "enhanced recruitment" experiments such as the Farm Labor Information Bulletin which have, at best, regularly reported labor surpluses in upstream demand states, continued investments in ICS are a sort of bureaucratic tour-de-force which cannot and should not be tolerated in a public sector committed to "putting people first".

3. While local Job Service offices can play an effective labor market intermediary role, there are policy considerations which mitigate against this form of intervention.

Our research indicates that local Job Service offices can play an effective role as labor market intermediaries. But such effectiveness rests on skills similar to those of successful labor contractors -- intimate understanding of the day-to-day labor demands in key crops locally, the ability to respond very rapidly (within a matter of hours) to job orders, and enough "market penetration" among both producers and workers to assure a high volume of job orders and to provide incentives for workers to congregate at the office in a form of mini shapeup.

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[16] Such strategies often involve practical and solid commitments regarding employment for an entire family (e.g. processing work for wives and daughters combined with harvest work for men), preferential access to work during off-season periods of high competition for favored, highly reliable workers, "extended seasons" of work due to complementary cropping, and downsiziing of pruning crews in tree fruit to allow each worker an adequate number of hours of work per week.

However, the availability of the Job Service makes it feasible for agricultural employers to cling to personnel strategies based on offering worse-than-average wages and working conditions, accepting high turnover rates, and relying on the local Job Service office to provide a continuous stream of casual workers. Structurally, effective local recruitment of workers has effects similar to those of the widespread availability of farm labor contractors. Thus, the role played by the Job Service in some labor markets may hinder employer movement toward improved labor recruitment and management practices.

In assessing the Job Service's role in facilitating employment in local labor markets, there is a significant trade-off between short-term benefits and long-term structural changes in the farm labor market. The benefits of a labor exchange are real. Workers who have finished work in one crop task can have their movement to a new crop task facilitated, improving the total amount of work available to them and, consequently, their annual earnings. At the same time, employers can have their labor needs met. The policy question hinges in reality on whether there is a rationale for public sector involvement in the labor exchange activity. Would there be any difference if farm labor contractors fulfilled the function now filled by the Employment Service? Would there be a difference if there were in every farm labor community a drive-by street-corner labor market or shape-up like the "bus station" in Immokalee, Florida instead of a Job Service Office? I doubt it. The Job Service offices which function effectively in this role essentially mimic the behavior of good labor contractors. Those which do not function effectively in this role, fail because they cannot establish rapport with agricultural employers, because their paperwork processes are too slow, or because they cannot bootstrap themselves into a position where they do function effectively.

In summary, I would argue that there are serious policy questions about the rationale for the Employment Service's current mission in the farm labor market, the efficacy with which it is possible to carry out that mission, and cost-effectiveness of even attempting to duplicate a function which is now extensively carried out by the private sector. However, I believe there are valuable roles which the Employment Service can, in fact, play. These are described below in the section on **Recommendations**.

Recommendations regarding a viable role for the Employment Service in the Farm Labor Market

1. Technical Assistance and Training Support for Structural Change in Farm Labor Recruitment, Hiring, and Supervision

The Employment Service has the potential of providing across-the-board support for agricultural employers who are willing to work collaboratively to improve the functioning of the farm labor market. Types of support which the federal-state Employment Service could provide in order to effect structural change in the farm labor market consist of training and development efforts targeted to farm labor contractors, farmworkers themselves, and to agricultural employers. Such efforts to leverage structural change in farm labor recruitment, hiring, and supervision include the following.

a) Training Farm Labor Contractors

The Department of Labor should advocate tighter regulation of farm labor contractors, combined with increased availability of technical assistance regarding way to comply with regulations -- a "carrot and stick" regulatory strategy. As in other industries dominated by small entrepreneurs, many farm labor contractors' technical expertise in running small business operations is limited. The Employment Service could play a valuable role in providing training opportunities for FLC's .Such training should include attention to the legal and regulatory framework, but also to basic topics in business planning, accounting, and personnel management. Limited, informal technical assistance is currently available to FLC's informally. There is no reason why there should not be a structured purposive effort to upgrade FLCs' employment practices.

b) Training Farmworkers regarding their rights

The bulk of America's farmworkers are not aware of the complex network of laws, regulations, and overlapping bureaucratic jurisdictions intended to protect their rights as workers. Legal services offices have promulgated pamphlets and handbooks giving an overview of this framework and, on an individual basis, MSFW outreach staff from Job Service Offices, JTPA 402 agencies, and Department of Labor Wage and Hour offices have responded to personal and call-in inquiries. This isolated, piecemeal strategy does not provide a structured and effective strategy to build farmworkers' awareness of the regulations and laws which apply to their worklives.

I would recommend that a program be established to make small grants to legal service providers, adult education programs, and JTPA 402 agencies as well as to fund in-house efforts to conduct classes on farmworkers' rights. Classes in the order of 10-20 hours (i.e. one three hour class meeting over a period of three to six weeks) would be likely to draw large, interested, audiences and make a significant contribution to farmworker welfare. The advantage of grants to adult education providers and to JTPA 402 programs is that "workers' rights" instructional modules can easily be incorporated into a general, multi-purpose ESL/ABE curriculum.[17]

Investments in adult learning to promote increased reporting of regulatory violations within the farm labor market, improved documentation of allegations, and increased worker confidence in seeing tangible outcomes from taking initiative must be assessed in terms of cost-effectiveness to increased investments in regulatory staff. My expectation is that global investments in adult learning will be more cost-effective than increased levels of field inspection staff.

c. Technical Assistance to Agricultural Employers in Labor Recruitment and Supervision

Federal and state agencies' role has often been seen to consist only of informing the public of the provisions of laws and regulations which affect them. However, there are powerful arguments that in general he law enforcement role should, ideally, be much broader and include a variety of "community change" roles. These arguments are relevant here. The role of the Employment Service should expand beyond provision of "bare bones" information on what is legal and what is not in terms of farm labor recruitment and supervision to address the key issues related to what constitutes effective management of farm labor.

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[17] For an outline of this curriculum, see Ed Kissam, "El Pais Desconocido: Conocimiento de Derechos y Estrategias para Sobrevivir en los Estados Unidso", a curriculum outline presented to the U.S.-Mexico Border States Queretaro Conference, May, 1992. This curriculum framework is scheduled for completion in March, 1992 and copies can be requested from the author at (707) 829-5696 or from the OTAN network at (800) 894-3113.

As in the case of worker training, a program of small grants to educational providers has great promise. There currently exist professional organizations such as the Agricultural Personnel Management Association (APMA) which have substantial practical in-house expertise in practical and effective labor management practices. Employer associations such as the Washington Growers' League have also demonstrated that industry-based technical assistance programs can be an effective means of changing employment practices. Such organizations, or the Employment Service itself, are prospective providers of short-term workshop/seminars focusing directly on practical problem-solving and strategies to minimize employer-worker tensions.

It is, of course, critical that technical assistance provided to the private sector be of high quality and plausible. Currently, efforts by agricultural extension personnel are seen as being overly academic, unrealistic, and dated by agricultural employers who are inclined to feel that the public sector does not understand their situation.

2. A Tightened Linkage of Unemployment Insurance to Employers' "Best Efforts" to Stabilize Agricultural Employment

Tax policy is known to be an effective means for leveraging structural changes in business practices in general or in specific industries. Structural reform to the Unemployment Insurance system has tremendous potential to provide more equitable treatment to agricultural employers, powerful incentives to encourage employers to restructure labor demand to use the existing labor pool more effectively, and to dramatically increase farmworkers' annual earnings (and decrease public assistance costs) as a result of marginal improvements in numbers of days of employment per year.

The current structure of the federal-state Unemployment Insurance system provide inadequate incentives to agricultural employers to engage in job and task restructuring in order to stabilize farm labor employment. In a forthcoming paper, I describe in detail a proposed reform which could effectively link these now-disparate facets of Employment Service Activities.[18] In summary, the required changes require "uncapping" the UI contributions schedule so as to increase the UI contributions costs for high-turnover employers while decreasing the UI costs of low-turnover employers. One promising policy option would be to build into the restructured UI rate schedule an UI discount for employers demonstrating "best efforts" in labor recruitment such as participation in industry-sponsored labor exchanges designed to facilitate workers' movement from one crop task in a local area to the next crop task, provision of guarantees of minimum amounts of work per day and per week, etc.

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[18] Ed Kissam, "Everyday Realities and Effective Public Policy: The Case of Migrant and Seasonal Farmworkers" (forthcoming, January, 1993). This paper explores the across-the-board implications of post-IRCA farm labor market research for redesigning human service delivery systems.

Farm labor demand is, inevitably, seasonal and there are, clearly, limits to the degree to which farm labor demand can be smoothed in order to use less workers while yielding more days of work for each worker. However, our case studies (Kissam, Garcia, and Runsten, 1992; Kissam and Garcia, 1992) show that employers can, in fact, use various strategies to extend the number of days of employment available to a labor force of "regular returnees" while maintaining their profitability (and probably increasing their workforce productivity). At the same time that labor demand is recognized to be sensitive to many different extraneous factors, making it essential for agricultural employers to maintain small labor supply buffers, it must be recognized that current surpluses are larger than necessary and that it would not be a burden to require the industry to tighten up in terms of effective use of available labor supply.

NAWS data show that even regular experienced farmworkers who are strongly attached to the farm labor force work only 165-170 days per year in farmwork. Even marginal improvements in labor force utilization (e.g. an increase of 8 days of work per worker each year or 5% increase in total hours worked) would yield about $400 in increased earnings per farmworker, an aggregate benefit of more than $500 million. to the farm labor force.[19]

3. A Revised Research Agenda

Current farm labor market information efforts are oriented primarily toward generating information on hourly wage rates and aggregate labor demand. In order to develop rational and effective farm labor policy, it will be necessary to redirect farm labor research efforts toward the dynamics of labor market processes.

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[19] This estimate is conservative in that it assume that only 1.2 million farmworkers of the 2-2.5 million farmworkers in the U.S. fall into the "regular, experienced, professional" group of farmworkers most likely to benefit from improved labor force utilization. In actuality, increased earnings would be generated both by increases in average work day and in average work week.

The most striking shortcoming of post-IRCA farm labor market research is that the research agenda was focused on macro-issues to which the answers soon became evident. Most researchers came early on to discover that, yes, there was a farm labor surplus and, no, employer sanctions were not working. While we readily answered these questions, our research, at the same time, allowed us finally to pose new questions in a more precise and challenging fashion. For example, we know that post-IRCA migration patterns are changing in important ways. The NAWS shows new "pioneering" migrants diffusing into areas of the U.S. which did not previously rely on Mexican immigrant farmworkers (Mines, Gabbard, and Samardick, 1991). Our own research (Kissam and Griffith, 1991; Kissam, Garcia, and Runsten, 1992) has suggested that Mexico-U.S. shuttle migration is increasing in the post-IRCA period and that new migration networks are becoming important. These findings need to be quantified and extended. The policy and program planning implications are particularly relevant in terms of regional allocation of funding, program staffing requirements, and regulatory strategies.

Yet there is much that we still do not know, even in the areas which have commanded most of our attention. In particular, research on the relationship between farm labor management and worker productivity is very badly needed if, in fact, we are to hope to convince U.S. labor-intensive agriculture that there do exist "win-win" scenarios which can serve, in part, to decrease the extent of adversarial conflict between farmworkers and their employers. Researchers such as Susan Gabbard have just begun to scratch the surface in terms of modeling farmworker decision-making; the practical implications of such research is substantial. My colleagues and I have yet to followup with quantitative modeling of the implications of our findings regarding the ways in which different sub-groups of farmworkers' decision-making process differs when confronted with the ambiguous piece rate offers and how this serves to structure farmworker economic strategies for risk management.

From my perspective as a member of what is admittedly a "special interest group" it will be crucial to involve researchers more directly in determining the applied research agenda with respect to farm labor. While it has generally been held that virtually all research should be driven by peer review, Congress has pushed bodies such as the National Science Foundation to consider more carefully the link between pure and applied research, between science and technology. In the farm labor field, we are, ironically, in a different situation; we need to determine how practical policy development might possibly benefit from fundamental research.

If regulatory concerns alone are allowed to drive farm labor research, we run the risk of wasting public dollars on studies such as a study of the terms of employment and working conditions of California sheepherders, Nevada woolshearers, and Michigan dairy workers -- just to mention a few of the obscure job classifications which occupy the attention of H-2a system processors. Eventually a balanced decision-making process is needed to assure that farm labor research dollars are spent on research which has scientific merit, practical utility, which is affordable, and which is "important" in terms of policy formation or program planning implications.

Summary

Recent research on the dynamics of the U.S. farm labor market suggests that it is necessary to embark on a fundamental re-examination of the Employment Service's current role in the farm labor market. Public sector involvement in the farm labor market can be justified only if programmatic objectives are well-founded, greater attention is given to cost-effectiveness, and if policy and program options are carefully examined within a broad policy context.

There are several roles which the Employment Service might fill in efforts oriented toward improving the functioning of the U.S. farm labor market. Direct involvement in interstate clearance system activities is not, however, one of the roles which promise most cost-effectiveness. Recommended roles include training and technical assistance activities oriented toward agricultural employers, farmworkers, and farm labor contractors; structural revisions to the Unemployment Insurance system as it affect agricultural employers and farmworkers, and forging a new collaborative farm labor research agenda.

Farm labor market research has given little attention to the dynamics of farm labor market functioning, thereby providing an inadequate basis for rational policy development and program planning. In order to effect anything more than marginal improvement in the welfare of migrant and seasonal farmworkers, it will be necessary for the Department of Labor and leading agricultural states to initiate a coordinated effort to simultaneously address issues which are now dealt with in a piecemeal fashion. At the same time, it will be necessary to seek a closer and more productive linkage between immigration policy and employment policy. Higher staffing levels, more spending, more regulations, and more coordination among bureaucracies responding to narrowly-defined legislative and regulatory missions will mitigate neither the chronic inequalities in the farm labor market nor the tensions between public demand for immigration control and business demand for immigrant labor. A new break-the-mold approach is needed; otherwise there is little justification for continuing with strategies which have a long history of failure.

On the industry side, it will be necessary to engage in an equally searching and serious re-examination of labor recruitment and management issues. Efforts to improve supervision and to stabilize agricultural employment will be critical in U.S. labor-intensive agriculture's ability to compete in a global agricultural market, whether or not the North American Free Trade Agreement is implemented in the immediate future.

"Win-win" scenarios are conceivable but only if there emerges a new sense of commitment to addressing fundamental farm labor market issues to replace a half-century history of business-labor jockeying for comparative advantage.

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1 CFR §305.92-4

OFFICE OF
THE CHAIRMAN

Recommendation 92-4

Coordination of Migrant and Seasonal Farmworker Service Programs

Adopted June 19, 1992

Since the 1960s, the federal government has established numerous service programs to help meet the needs of migrant farmworkers. From the early days, migrants have been considered a uniquely federal responsibility, primarily because of their interstate movement, which makes it hard for the workers and their families to qualify for local assistance and disrupts other services like schooling for the children. As these programs have evolved, many have come to serve nonmigrant seasonal farmworkers as well.

The programs to meet health, education, housing, job training, and other needs of migrant and seasonal farmworkers (MSFWs) have developed separately. There are approximately 10 MSFW-specific service programs, and farmworkers also draw upon the assistance of numerous other general programs such as food stamps or Medicaid. The four largest federal programs are Migrant Education, administered by the Department of Education; Migrant Health and Migrant Head Start, both administered by the Department of Health and Human Services; and the Department of Labor's special job training programs for MSFWs under Section 402 of the Job Training Partnership Act.

Each program has its own definition of migrant and/or seasonal farmworker, as well as other eligibility standards. The result is a potential for overlap of some services and gaps in others, and there is no overarching provision for effective coordination among the programs. Various efforts have been undertaken at the national level to improve coordination, but with mixed success to date. These include an Interagency Committee on Migrants, a staff-level group that meets quarterly, largely for information-sharing purposes; an Interagency Coordinating Council, established informally as a forum for policy-level decisionmakers involved in the various programs, but now inactive; and a Migrant Inter-Association Coordinating Committee, involving nonprofit grantees and other organizations representing direct service providers.

In addition, MSFWs often qualify for other services provided by state and local governments or funded through private initiative, each governed by its own particular definitions or eligibility standards. These services are especially important in areas where some or all of the major federal programs are not present. Effective local service providers therefore have to be adroit in locating those available services, from whatever source, that can best meet the needs of their clientele. Because of the great variety in locally available services of this kind, much of the task of coordination among MSFW service programs necessarily takes place at the local and state level. Many states are finding ways to encourage this process by the creation of a governor's committee or task force, involving service providers, growers, representative government officials, farmworkers, and others.

The federal government should also take steps to improve coordination of services. For example, the intake procedures for each service program (now typically undertaken separately by each of the agencies, despite considerable duplication) should be streamlined. To effectuate such efforts, and to provide better interagency consultations before program changes are introduced, the President should establish by executive order a policy-level Interagency Coordinating Council on MSFW programs. This Council is not intended to replace, and indeed should promote, existing coordination at the program staff, state, and service delivery level.

To facilitate interagency coordination, whether or not such a Council is created, a reliable system for gathering data on the nation's population of MSFWs is needed. Although each agency has its own mechanism for generating program statistics and estimates of the target population, these vary widely in method and scope, and each suffers from specific inadequacies. They produce widely varying pictures of the nation's population of MSFWs, to the continuing frustration of legislators, service providers, researchers, and others. Agricultural labor data have always been left out of the Department of Labor's regular employment data system, and no other adequate permanent data source now fills the gap. The recommendation provides some guidance on the goals of such an information-gathering effort.

RECOMMENDATION

I. Coordination at the national level

An Interagency Coordinating Council on migrant and seasonal farmworker (MSFW) programs should be established to strengthen national coordination of MSFW service programs. The Council would be charged, inter alia, with identifying specific coordination tasks to be accomplished, in most cases under the primary responsibility of a designated lead agency.

A. To ensure an enduring structure and a clear mandate, the President should issue an executive order creating the Council, specifying the policy-level officials from appropriate agencies who would be permanent members and designating a chair. The order should also designate an agency that would initially have primary responsibility for staffing the Council's meetings and other functions. The Council should be specifically charged to coordinate and review MSFW service programs, giving particular attention to gaps in services and unjustified overlap. It should encourage public participation through public meetings, creation of an advisory committee, or other means.

B. The executive order should provide that the Council, in cooperation with the Office of Management and Budget, review proposals for significant changes in any agency's MSFW service program (including proposed legislation, regulations, and grantee performance standards). OMB should consolidate or coordinate its own oversight of all federal MSFW service programs.

C. The executive order should assign to the Council the initial responsibility to develop, through delegations to the appropriate agencies, a reliable and comprehensive MSFW population census system, independent of any of the specific programs, along the lines described in part II. Other specific coordination tasks that the Council might wish to take up include development of consolidated or streamlined intake processing for MSFW programs, provision of better linkages among existing MSFW information clearinghouses, and encouragement of cooperation among direct service providers.

D. The Council should identify and assign priorities to the coordination tasks to be accomplished, with a strategy and timetable for their achievement. In most instances, it should assign lead responsibility for each specific coordination task to a designated agency. That agency's coordination efforts with other agencies may include suggesting regulations or other implementation measures.

E. The Council should study the differing eligibility standards of MSFW programs and identify, if appropriate, where consistency could be achieved without substantial impact on the beneficiaries of those programs.

F. The Council should also study and make recommendations on the strengthening of state and local coordination of MSFW programs.

II. Information gathering on migrant and seasonal farmworkers

A. To improve coordination of and service delivery in MSFW programs, the executive order should:

(1) Authorize the Council to develop an integrated, cost-effective system for gathering data on the number, characteristics, and distribution of MSFWs and their dependents;

(2) Authorize the Council to designate an appropriate agency to have responsibility for collecting the data, with the cooperation of federal agencies with MSFW service programs;

(3) Direct appropriate federal agencies with expertise in gathering these kinds of data, such as the Bureau of the Census, the Bureau of Labor Statistics, the National Center for Education Statistics, or the National Agricultural Statistics Service, to cooperate with the Council's effort; and

(4) Provide opportunities for submission of data and information from the public.

B. This data system should ensure that the information gathered on MSFWs and their dependents sufficiently describes workers employed in a broad spectrum of U.S. agriculture and related industry. This means that the data should include and distinguish among workers employed, for example, in crop and livestock production, the packing and processing of farm products, and fisheries. Data should be collected on workers and their dependents, including such factors as recency and frequency of migration, farm and nonfarm earnings and periods of employment, and health, education, and housing characteristics. These comprehensive data should be collected in a form designed to be useful to service programs with differing definitions of eligible workers and their dependents.

C. This data system should be designed to help the Council identify general trends--including changes in the total number of MSFWs and their dependents and employment patterns--and opportunities for coordination among MSFW programs. To help achieve this goal, the Council should consider whether there are areas in which a consensus on a set of common characteristics of MSFWs should be developed for statistical purposes.

HAC

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For at least two generations the United States has pursued an agricultural policy designed to keep food costs for American families both plentiful and low in cost to the consumer. There can be little doubt that the policy is successful. Overall, food prices and the abundant supply have made our retail supermarkets the envy of the world.

While consumers enjoy significant advantages from this policy, as usual, someone has to pay. Without going into detail, it is apparent that the taxpayer subsidizes the growers in a variety of different way - marketing orders, low-cost water, farm-to-market roads, enormous research expenditures, and of course direct payments of various kinds to growers, ranging from direct price supports to payments for not growing certain crops.

We do not suggest that this policy is misguided or wrong, or that tax dollars should not be used to implement the policy. Virtually all taxpayers are beneficiaries and there is nothing inherently unequal about asking taxpayers to meet the bill.

THE REST OF THE COST

What we do suggest is that the taxpayers do not foot the entire bill. Two other groups bear a disproportionate share of the cost - small family farmers and, of particular interest to HAC, farm laborers, including hundreds of thousands of migrant workers.

While it is arguable, there is a considerable body of thought which believes that the various subsidies have at least contributed to the loss of thousands of family farms in this country. Those farm families have sacrificed their livelihoods to the implementation of the cheap and plentiful food policy. Perhaps it is inevitable, but the family farm is disappearing, replaced by the corporate farmer, better positioned to take advantage of the opportunities available to modern farm entrepreneurs.

But an even greater subsidy payment is made, year after year after year by the farm laborers who plant, cultivate and harvest the bountiful, low-cost food we take for granted. No one knows with any certainty just who or how many there are. The USDA publication, "Agriculture Statistics" has nearly three hundred pages on commodities - soybeans, tree fruits and nuts, dairy products, tobacco, etc. - but only four pages on hired farm labor. Another USDA report, "The Agricultural Work Force of 1987" (an annual publication now discontinued "for budgetary reasons") places the number of farmworkers at 2,463,000, but it includes neither the Special Agricultural Workers (SAW's) gaining legalization under the

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Immigration Reform and Control Act of 1986, an estimated 1.3 million, nor does it include many of the undocumented workers who are notoriously difficult to count. The official count is unlikely to contain the thousands of underage children of migrant families who also labor alongside their parents in the field in an effort to boost the family income. It is HAC's considered estimate that there are a minimum of 5,000,000 farmworkers working annually in the United States. The huge majority are migrant farmworkers, and most, according to the House Select Committee on Aging, are young married foreign-born males, over two-thirds of Hispanic origin.

How do these farmworkers subsidize our table foods? By accepting minimum and even sub-minimum wages. By traveling long distances in often unsafe vehicles to accept those low-paying jobs. By tolerating working conditions unsafe by any health standard. By living in abandoned chicken houses, exorbitantly expensive motel rooms, doubled up with two or three families in one room shacks, or living in orchards, dry stream beds or abandoned vehicles. By permitting their children as young as six to work in the fields with them. By indenturing themselves to farm labor contractors who all to often "short-weigh" "short-count" and consequently shortchange workers on pay and withheld taxes, while charging excessive fees for food, lodging, transportation and life's necessities. In short, hundreds of thousands of farmworkers subsidize our food by surrendering their dignity to the demands of survival.

The principal result of Edward R. Murrow's CBS broadcast of 30 years ago, "Harvest of Shame", detailing the misery and neglect of migrants has been an increased public awareness of the problems. But there has been but little tangible change. Five cabinet level departments - USDA, Labor, HHS, Justice, Education and the EPA have regulatory or program responsibilities for migrant farm laborers. Laws are on the books. Administrators we have. Amelioration of the deplorable working and living conditions has not yet occurred.

HAC is in no position to discuss the migrant health, education, headstart, or job training programs administered by those departments, but we do understand the desperate need for decent housing and the inadequate response. Further, it does seem apparent to us that inadequate living conditions must contribute materially to the precarious state of health so many migrants suffer. Lack of pure drinking water or even of water to bathe off field applied chemicals is commonplace.

HOUSING FOR MIGRANT FARM LABORERS

The most recent survey (in 1980) of the national need for migrant farmworker shelter indicated a shortage of nearly 800,000 units. More rigorous enforcement of health and sanitary standards since that time have meant the loss of even more private labor camp units, while the only federal farmlabor housing program has

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financed, since 1980, fewer than 5,000 new units, virtually all of those in states with nearly year-round need for farm labor. The existing farmlabor housing program administered by the Farmers Home Administration (FmHA) in the U.S. Department of Agriculture, is wholly inadequate to the task.

Funded at roughly $27 million in FY 1992 (40% grants), the Section 514/516 farmlabor housing program simply cannot meet the need. Furthermore, the nature of the program financing virtually necessitates year-round occupancy of the units which are built, making it totally impractical in agricultural areas with a labor demand of only three or four months.

The National Affordable Housing Act of 1990 did establish a new Homeless/Migrant program which would permit interested local governments or nonprofits to apply to FmHA for 100 percent financing of shelters to be used for migrants during their residency in the community, and for homeless individuals and families in the off season. While $10 million was authorized, nothing was appropriated. FmHA is attempting to utilize money from the 514/516 program to initiate the program, but the legislative requirements that an area have both migrants and homeless has made the program almost unworkable.

In short, there is no workable program to address the need for decent housing for migrant farmworkers in the agricultural communities which need such labor for a few months each year. There is not even an adequate program to provide decent housing for farmworkers in those areas which need their labor 8, 10 or 12 months of the year.

WHAT MUST BE DONE

The Housing Assistance Council has, over the past twenty years, made a series of suggestions addressing the housing plight of migrant workers. While this particular briefing is not the place to discuss those suggestions, HAC does wish to make the Commission aware of the problem, and recommend that a future briefing be devoted to the housing problems of migrant farmworkers. We would be happy to address the problems in detail at such a time.

STATEMENT OF THE AMERICAN FARM BUREAU FEDERATION TO THE COMMISSION ON SECURITY AND COOPERATION IN EUROPE WITH REGARD TO AGRICULTURAL LABOR POLICY ISSUES

July 20, 1992

The American Farm Bureau Federation is the largest voluntary membership farm organization in the United States with nearly four million member families in fifty states and Puerto Rico. We appreciate the opportunity to brief the Commission on our perspective on agricultural labor policy issues.

Farm labor has always been an important issue to farmers. We estimate that Farm Bureau member families include some 85 percent of the nearly one million farmers who employ hired farmworkers.

Farm Bureau's interest in agricultural labor policy has spanned the development of the agricultural labor statutes and regulations currently in law. Farm Bureau's policies dictate our involvement on each specific issue. Farm Bureau is not opposed to workable and effectively-administered programs to upgrade the welfare and skills of migrant and seasonal farmworkers. Many examples of Farm Bureau's cooperation in the areas of worker protection and rights exist:

* Farm Bureau worked at length with Members of the House and Senate, other agricultural organizations, farmworker advocacy groups and the Reagan Administration on introduction and passage of the Migrant and Seasonal Agricultural Worker Protection Act (MSPA). That bill became law in 1983, and Farm Bureau has worked since that time to educate farmers and ranchers about their responsibilities under the law.

* In 1985 and 1986, Farm Bureau worked with EPA in the revision of the 40 CFR Part 170 regulations governing farmworker pesticide protection. When these regulations are finalized, Farm Bureau will educate its members about compliance with these complex requirements.

* Farm Bureau was a participant in passage of the Immigration Reform and Control Act of 1986 (IRCA) which resulted in the legalization of over one million formerly undocumented alien farmworkers. State Farm Bureaus and other agricultural organizations around the country held training seminars and workshops to help the industry understand the employment verification and other requirements under IRCA. As a result, compliance with IRCA is higher in agriculture than any other industry group.

* In 1983, we supported the transfer of CETA's Migrant and Seasonal Farmworker Programs into the Section 402 grant programs of the Job Training Partnership Act.

* Many of our state Farm Bureaus work with migrant education and training programs, Migrant Head Start and other farmworker programs.

* In 1992, Farm Bureau joined with the Department of Justice to educate farm employers about their responsibilities under the anti-discrimination provisions of the 1986 Immigration Reform and Control Act.

* Farm Bureau publishes a labor law handbook to ensure farmers' compliance with laws and regulations. We provide regular notices about current agricultural labor policy developments so that farmers share their concerns about labor policy and regulatory requirements' effects on the industry.

Farm Bureau is concerned about the representations made by Ambassador Samuel Wise in his June 5, 1992, statement to Working Group Three. Mr. Wise seems to have accepted at face value representations made by groups including "government officials, advocates, service providers, legal assistance groups and migrant farmworkers themselves."

From these meetings, the Commission has drawn bleak conclusions:

> "...wage fraud, intimidation, harassment and physical violence including sexual; unsafe exposure to toxic pesticides and chemicals; substandard housing; racial discrimination; restricted movement; restricted access to legal assistance; child labor violations; inadequate and restricted access to health care; unsafe and potentially deadly transportation and inadequate or ineffective law enforcement mechanisms...."

Farm Bureau does not share this assessment of present conditions in American agricultural employment. Further, we note with dismay that the Commission's research on this issue was not balanced by any discussions with employer groups. Such a biased position for drawing conclusions in this subject area will not be helpful in assembling a credible report.

The Commission's initial approach is flawed. It's clear from an examination of existing laws and government programs that the framework is in place to address such problems as may exist.

The agricultural employer community is already one of the most heavily-regulated employer groups in the United States. Further, it is not known how many migrant workers there actually are. Existing problems would be more easily solved if the data were available to properly define the actual extent and significance of employment-related problems.

The Commission may be aware that the Administrative Conference of the United States (ACUS) recently has concluded that greatly expanded coordination in the area of migrant data collection and program delivery will go a long way toward alleviating migrancy problems. Consider how improved data collection would be useful.

The USDA Quarterly Labor Survey shows that, in most quarters, from 600,000 to 2.5 million people are employed in agriculture in total.

This agrees with the USDA "Hired Farm Work Force" publication which shows that, out of a total farm work force of 5 million persons, less than half--2.3 to 2.4 million--are actually hired. That is, they are paid to perform farmwork instead of being an unpaid family member.

Beyond this, the USDA's 1987 Current Population Study shows that only 954,278 of the 2 million farms in this country had labor expenses. Of these, on 682,184 farms the farmer hired and paid the workers himself. An additional 135,931 used farm labor contractors or custom harvesters; 136,163 used a mix of both direct hires and contractors.

It's not known how many farmers who employ labor fall beneath threshold coverage of the Migrant and Seasonal Agricultural Worker Protection Act (MSPA) and the Fair Labor Standards Act (FLSA). Both of these laws contain a small employer exemption for employers of less than 500 man-days of labor per calendar quarter.

Similarly, we don't know how many farmers are exempted from OSHA enforcement by the appropriations rider preventing OSHA enforcement on farms with ten or fewer employees.

The "Hired Farm Work Force" reports that the majority of farmworkers are employed on a casual (less than 25 days) or seasonal (25-149 days) basis. Combined, this represents 68 percent of the hired farm workforce. Regular and year-round workers who worked more than 150 days each year make up 32 percent of the workforce and account for 77 percent of the total days of paid farmwork.

Additionally, the "Hired Farm Work Force" reveals that almost half of all farmworkers work outside the labor force most of the year. Thirty-four percent are actually students and housewives who are not in the workforce otherwise.

Earnings and unemployment statistics are skewed by factors such as these.

Accordingly, it would be helpful for the federal government to determine exactly who the workers are, where the jobs are located and how long during the year the workers are employed in migrant and seasonal jobs.

Migrant advocates claim that 4-5 million individual migrant and seasonal farmworkers are employed annually. We believe this figure is inflated at least two-fold because workers are transient and are counted more than once.

Accurate data would be helpful in targeting migrant education, training, health, day care, legal services and other benefits. Currently, almost $500 million federal tax dollars are appropriated for these purposes. There are also state and private monies dedicated to migrant services. With accurate data, the funds could be more effectively spent where the jobs and employment of actual migrant workers are located.

It is difficult to comment specifically on the Commission "findings" without more details. However, in brief:

* **Safety.** National Institute of Occupational Safety and Health points to agriculture as one of the two most dangerous occupations in America. However, the vast percentage (60+ percent) of accidents happen to the farmers themselves, not to hired labor, and they are equipment and tractor accidents. Pesticide exposures are estimated to be the lowest occupational injury--about 5 percent of all accidents. No government data exists which is any more specific than this.

* **Intimidation.** The Migrant and Seasonal Agricultural Worker Protection Act (MSPA) specifically prohibits "intimidation" of workers. Farmers are rarely cited, if ever, for such violation.

* **Health Care.** Farmers are self-employed. As such, they, too, have "inadequate and restricted access to health care." Nevertheless, Farm Bureau is strongly opposed to mandatory employer-paid health insurance or nationalized health care.

* **Child Labor.** In 1990 the U.S. Department of Labor conducted a nationwide child labor enforcement action in "Operation Child Watch." Fewer than .25 percent of 60,000+ violations uncovered by that coordinated enforcement effort were in agricultural employment. Hiring children to perform the heavy manual labor required in farm jobs is not cost-effective for farmers. Child labor law violations are not a problem in agricultural employment.

* **Legal Assistance.** Far from "restricted access to legal assistance," farmworkers have the undivided attention and deep pockets of federally-funded legal services attorneys. Litigation in agricultural employment is an increasingly large problem for agricultural employers.

Farmers' responsibility under the law is clear, and Farm Bureau works to help growers comply with the myriad of requirements in housing, field sanitation, taxes and FICA withholding, worker recruitment notification, safety training, transportation, wage and hour recordkeeping, immigration and civil rights laws, child labor, general safety and pesticide protection areas. The vast majority of Farm Bureau members and farmers in general try to the best of their ability to meet the letter and spirit of these laws.

At the same time, most farmers are small, independent businessmen. National average farm income is about $15,000 per year. Most farmers have no office personnel other than a family member who might keep the books. At the same time, farmers have a genuine regard for the law and for the welfare of their workers. They want to comply with the laws and make the best working accommodations for their workers that economics, time and ability will allow.

Government should foster a spirit of cooperation between grower and worker rather than the adversarial attitude which now exists. Farm Bureau believes that additional data collection and a much greater emphasis on employer education would be more appropriate than additional regulation and legal responsibilities. We urge the Commission to reexamine its findings and broaden its research activities to develop a less biased view of the actual conditions in agricultural employment in the United States today.

APPENDIX 3. Briefing Two: Health and Safety Issues

TESTIMONY TO THE COMMISSION ON SECURITY AND COOPERATION IN EUROPE
OCTOBER 9, 1992

BY MARILYN H. GASTON, M.D.
ASSISTANT SURGEON GENERAL
DIRECTOR, BUREAU OF PRIMARY HEALTH CARE
HEALTH RESOURCES AND SERVICES ADMINISTRATION
DEPARTMENT OF HEALTH AND HUMAN SERVICES

Introduction:

I am Dr. Marilyn H. Gaston, Director of the Bureau of Primary Health Care. It is a privilege to speak before you today and I applaud the efforts of the Helsinki Commission on behalf of migrant and seasonal farmworkers.

My professional career has been dedicated to improving the health of children and their families, especially poor and minority families. I assisted in the establishment of a community health center in Cincinnati and served as its first Medical Director, meeting the needs of low income African Americans.

I am now the Director of the Bureau of Primary Health Care. This is the largest Bureau within the Health Resources and Services Administration, with a budget of over $1 billion dollars. We are responsible for improving access for underserved, minority, poor, disadvantaged populations across the country to high quality, comprehensive, primary health care services with an emphasis on prevention. Our community-based programs are designed to meet the needs of over six million persons that experience unique barriers in the receipt of appropriate primary care services. Our programs target those who are also at greatest risk for poor health outcomes.

Since coming to the Bureau, I have actively supported a renewed focus on the health needs of the migrant and seasonal farmworker through the Migrant Health Program. In spite of my previous experience, I must confess I am still learning about the significant challenges we face in delivery of services to a mobile, multi-cultural population with significant health problems. I, like many of you, first learned of this population on a Thanksgiving evening in 1960 when Edward R. Morrow presented the documentary, **Harvest of Shame** to millions across the country, exposing the bitter experience of the migrant condition.

This is not a stable population bounded in a specific geographic service area. This is a population at high risk which is often hard to reach because of their mobility. The health problems of stable communities can be clearly identified in county or hospital data. A population that is constantly on the move presents enormous challenges for data collection and for service delivery. Although reliable data are limited, what we do know about the overall health status of these poor, hardworking people is very disturbing.

The health profile of the migrant farmworker population resembles that of a puzzle with many separate pieces of health status information. In an attempt to provide a more complete picture, the Bureau was pleased to support a comprehensive study conducted last year of four migrant health centers in three States. The study points out that the disease patterns of this population are similar to those found in the general population of the United States well over sixty years ago. They have high rates of parasitic and infectious diseases including food and water borne disorders, as well as chronic diseases. The rate of diabetes is as much as 300 percent higher than that of the general population. Migrant farmworkers and their families are more likely to experience significant maternal and newborn health problems, such as high risk pregnancy, as well as hypertension, infectious and dermatological diseases.

The recent report of the Centers for Disease Control indicates the distressing fact that farmworkers are approximately six times more likely to develop tuberculosis (TB) than the general population of employed adults, given their substandard and over crowded living conditions. We are developing a strategy that recognizes this re-emergence of tuberculosis as a public health issue. Expanded research on their overall health status of farmworkers will allow us to respond in a much more directed fashion.

Today, I want to tell you about our efforts to meet the health needs of migrant and seasonal farmworkers. I will focus my comments on several key areas of the Bureau's strategic plan: Access, Clinical and Integration/collaboration. I am proud that 1992 marks 30 years of health care service to migrant farmworkers through the Migrant Health Program. The Migrant Health Act was enacted on September 25, 1962, largely as a result of the public's outrage over **Harvest of Shame**. The program also came about to protect the farm community from communicable diseases and to assist an already overburdened rural health care system.

Access:

Our highest priority both now and in the future is increasing access to family-oriented, community-based primary health care for migrant and seasonal farmworkers and their families. The Migrant Health Act authorized the provision of primary and supplemental health services to farworkers. We have grown from an initial appropriation of $750,000 to an appropriation of $57.7 million. Today, the 104 organizations we support operate clinics in over 400 locations and serve the needs of over 500,000 patients annually. We attempt to fill a gap and create a network of health centers up and down the migrant streams where none had existed before.

The Migrant Health Center Program serves the most vulnerable among us through a community-based system of care. The National Agricultural Workers Survey recently reported that the average farmworker earns less than $7,500 per year. Fewer than 18 percent were recipients of needs-based social services such as Food Stamps and Aid to Dependent Children. The exposure of these people to environmental and occupational hazards and substandard living conditions challenges the very fabric of our delivery system. A system which must continue to face the serious challenges of recruiting and maintaining qualified health care providers and keep up with the spiraling cost of care.

The Migrant Health Program appropriation increased from $51.7 million in fiscal year (FY) 1991 to $57.7 million in FY 1992. The President requested an appropriation of $62.9 million in FY 1993. It appears the final appropriation for FY 1993 will be $57.3 million. On September 25, Secretary Sullivan announced $27.9 million in awards to establish and expand community and migrant health centers in urban and rural areas throughout the country. Of that, approximately $5 million was used to expand services directly to migrant and seasonal farmworkers.

The economic, geographic and social disadvantages often found in rural areas, present recruiting difficulties for our Migrant Health Centers. A key component of our access plan has been the revitalization of the National Health Service Corps (NHSC), to address this recruiting problem. During 1992, the National Health Service Corps celebrates 20 years of recruiting, placing and supporting primary care providers to improve access for the underserved of our Nation. The NHSC Revitalization Amendments of 1990 (Public Law 101-597) provided the mandate and re-authorization for the NHSC to continue to place providers in settings which serve those most in need, such as migrant farmworkers and their families. We will target our recruiting efforts to multi-ethnic, multi-racial providers. In FY 1992 approximately $57 million was available for the NHSC Loan Repayment program, NHSC Scholarships, and State Loan repayments.

In order to expand access for farmworkers, we must expand and facilitate financing coverage under the Medicaid Program. As was pointed out in the recent **General Accounting Office Report: Hired Farmworkers ...Health and Well-Being at Risk**, Farmworkers who qualify for Medicaid face enormous barriers in enrollment procedures and administrative requirements. Trying to get through the various enrollment and eligibility requirements as they move from State to State, as well as, problems associated with the lack of transportation, inconvenient hours of operation, and language difficulties represent insurmountable barriers to most migrants.

We are currently working with the Health Care Financing Administration (HCFA) to conduct a feasibility study of multi-State Medicaid Reciprocity program for migrant farmworkers and their families. The study would examine ways of establishing a reciprocity program to facilitate and improve the administration of Medicaid coverage for migrant farmworkers. The study will analyze existing barriers to Medicaid services to farmworkers, such as eligibility standards, enrollment processing time, maintenance of eligibility, provider acceptance of patients with out-of-state Medicaid cards, claims processing and provider payment. The results of the feasibility study may serve as the basis for implementing a Health Care Financing Administration demonstration of a reciprocity program in several States. The HCFA plans to initiate this study by February.

Clinical:

The foundation of our clinical efforts are the Migrant and Seasonal Farmworker Health Objectives for the Year 2000, a copy of which has been provided to the Commission. Clearly, a multi-disciplinary effort is needed to improve the overall health status of farmworkers in this country. The 15 Health Objectives reflect the agreed upon current priorities for migrant health service needs covering such things as goals to reduce environmental health hazards, HIV infection and infectious diseases. Another major priority for the Bureau deals with a new data strategy and health center reporting system. This will allow us to capture demographic characteristics, the nature and level of services, diagnostic trends and program accomplishments.

The nomadic life of the migrant farmworker creates associated problems with compliance and followup. We continue to look for new technologies in the area of data transfer and telecommunications networks to respond to this dilemma. The economic condition and health status of the farmworker requires that the migrant health delivery system and providers adapt to respond to these demands. That is why we have supported the fine efforts of the Migrant Clinicians' Network since 1985 in sensitizing providers to the unique issues of delivery of services to migrant farmworkers. Also I must tell you we have the most caring and committed providers I have ever been associated with in my career.

Integration and Collaboration:

As may be self-evident, providing health care for America's harvesters requires cooperation at every level: local; State and Federal. At the Federal level, programs designed to serve the farmworker evolved under separate legislation resulting in some fragmentation of services. That is why services integration and collaboration has always been a key goal of the Migrant Health Program. We must avoid the duplication of effort among migrant service providers in order to provide a more efficient comprehensive package of services.

In 1991, we supported a major study by the National Migrant Resource Program to evaluate the extent of integration and coordination of services among our health centers and other organizations at all levels. Early in this fiscal year we will be assigning three Federal staff to serve as Migrant Stream Coordinators. These positions are designed to remove obstacles and improve the ability of farmworkers to access health and other services as they move along the three migrant streams.

Since 1985, the Migrant Health Program has been an active member of a Federal Interagency Committee made up of the key Federal Departments serving migrants as well as interested private advocacy groups like the Farmworker Justice Fund. The mission of the Committee continues to be to share information, identify barriers to coordination and develop a common strategy to achieve the goal of improved services to migrant farmworkers and their families. I am very enthusiastic about recent ongoing collaborative efforts that I have mentioned with the Health Care Financing Administration on the problem of Medicaid coverage. We are also working with the Department of Housing and Urban Development on the alarming housing conditions which most migrants experience.

Our relationship with the Centers for Disease Control (CDC) continues to be strong. We have a joint evaluation project in which CDC will provide technical assistance to five health centers on improving their pre-school immunization rates. We also have an interagency agreement with CDC to target additional dollars for childhood vaccines in Bureau programs. Ongoing collaboration continues with CDC on Hepatitis B, TB and Sexually transmitted diseases initiatives. We also work closely with our sister Bureaus, the Bureau of Maternal and Child Health on special maternal and child health activities and the Bureau of Health Professions on expanded support of nurses in Migrant Health Centers.

We have supported and strengthened the work of the National Advisory Council on Migrant Health. This is a legislatively mandated Council whose members are appointed by the Secretary of Health and Human Services. It is also the only organization that hears public testimony from farmworkers from around the country on a regular basis. Their participation in this meeting speaks to their overall commitment to farmworker issues and the leadership of their Chair, Mr. David Duran.

In closing, let me say we will continue to build upon our long range plan to:

- improve access to care for farmworkers
- recruit and retain multi-ethnic and multi-racial health care providers who provide high quality health care
- improve integration/linkages/collaboration at the local, State and Federal level

Our job is enormous---and growing. The fact that States are suffering financially increases the burden on our programs. There is increasing recognition that our kind of health care---community-based, comprehensive, culturally and linguistically sensitive, family-oriented primary care is the answer to improving access to quality cost-effective care.

It has been said that the farmworker's struggle is still going on with the dignity, not to mention the lives of so many people at stake- it has been waged by others in earlier years, even as it will be waged in the years to come. I think all of us want to have a positive vision of the future for farmworkers....founded on the belief that the gap between the promise of a better life and their current reality can one day be closed.

TESTIMONY BEFORE THE U.S. COMMISSION ON SECURITY AND COOPERATION IN EUROPE

BY EDWARD ZUROWESTE, MD

OCTOBER 9, 1992

Good Morning. I am Dr. Ed Zuroweste from Chambersburg, Pennsylvania. As the chair of the Migrant Clinicians Network, I represent the doctors, nurses, dentists and other front line providers caring for migrant and seasonal farmworkers and their families in remote, rural areas.

I want to offer you a glimpse of what it is like to be a migrant clinician who cares for those who work to put food on our tables.

Farmworkers are wonderful people. They are smart and hardworking and they are survivors, accustomed to doing without or receiving very little. Sadly they have to be, because we can do so little for them with what we have.

Our health centers function in isolation not only isolated from one another but from the larger, main stream health care communities. We do not choose this isolation but in reality we function as islands of care for an often misunderstood and undervalued population in communities where residents do not have adequate access.

In addition, farmworkers are barred from traditional health care services by differences in language, cultural differences, lack of transportation, poverty, poor access to referral sources, and the absence of continuity of medical care and follow up.

Migrant Health Centers are tasked with creating a viable, culturally relevant system of care and they do a tremendous job with what they have, but what can be done with $100 per person, per year? That is the average spent on each farmworker seen in a migrant health center in a year, and at current funding we are able to care for less than 20% of the farmworkers in this country.

The needs of these people are great and they are ignored by much of America. While working to feed us, migrant farmworkers survive in substandard housing , labor long hours for low wages and are exposed to powerful dangerous pesticides. This occupation takes its toll as seen in an incidence of parasitic infection that is thirty-five times more common than within the general public (20 - 40% of all migrant farmworkers have tested positive for intestinal parasites); rising rates of tuberculosis that are 50-300 times more prevalent than among the general public, and the lack of or late prenatal care. Farmworkers have a third world pattern of infectious disease a, pattern not suffered by the general public in this country since early in the century. The magnitude of these problems is complicated by the fact that when the clients finally reach us for care what might have been an uncomplicated problem such as a simple hernia, has become severe.

Migrant farmworkers exhibit some of the worst dental manifestations of any population in the country. When they are queried, migrant and seasonal farmworkers place dental problems at the top of the list of their health problems.

One of the most tragic aspects of migrant and seasonal farmlabor is the labor that we extract from children. Farmworker children are excluded from the protection provided in the 1938 Child Labor Act. Children as young as ten years old can legally work in the fields. In this country 300 children die annually from work related farm injuries, and 25,000 children are injured in farm accidents. With current data collection systems it is difficult to determine exactly how many of these children are members of migrant farmworker families, but we can be sure that many of them are.

The problems farmworkers face can only be eased by a fundamental change in the economic dynamic that is in place. This change would include a decreased expectation by the American public for cheap food and the cheap labor needed to harvest it.

I worry about the migrant and seasonal farmworkers, and I also worry about those of us who care for them. Migrant Clinicians are dedicated people who like farmworkers are accustomed to working with very little. We are creative at doing more with less. But, we are frustrated in our efforts to serve the working poor. Frustrated by the lack of sufficient dollars to address the escalating need in a time of rising cost in the medical industry. Frustrated by the absence of reliable methods for tracking our clients who need continuing care. Frustrated by the shortage of mechanisms for payment of medical care. It is estimated that 90% of farmworkers qualify for Medicaid, yet fewer than 10% receive any type of benefits. This situation is coupled with a lack of financial support for farmworkers injured while laboring in the fields. We are frustrated by a federal health care system that rewards numbers and not innovations in care.

If I could wave a magic wand and provide health insurance to every migrant and seasonal farmworker in America today, there would still not be enough clinicians in rural practice to care for them. They would still not receive the care they so urgently need. There isn't a primary care infrastructure in this country for any of us, and those minority populations who are hard to reach in remote, rural areas are particularly unlucky. With the rise of HIV and the resurgence of TB the picture becomes even more menacing.

As a volunteer migrant clinician I am lucky because I can choose how I will serve. I have a private practice and I give my time, - nights and weekends, to take care of farmworkers in my community. For many of my colleagues that is not an option. They are shackled in outmoded delivery systems which neither nurture their development, reward their leadership, nor celebrate their sacrifices. Instead of being recognized for their service they are sometimes viewed suspiciously as striving for self engrandizement or as professionally incompetent. Why else would they be working with migrant farmworkers?

There has been a lot of talk about finding the secret to retaining primary care providers. Unfortunately, what retention too often means is capturing bright, young professionals right out of their learning programs to come to rural areas to practice for all eternity.

Lets be reasonable. How many of us have had one job all our lives? Lived in only one place, and worked non-stop in a place that was so needy that we must be available 24 hours a day, seven days a week? We are asking caring and compassionate human beings to function under circumstances where there is no rest, and no one to take your place if you can't go on.

If one of us makes the difficult decision to leave a rural placement to do research, or to accept a position teaching, or to give our children ballet lessons then we are considered a retention failure. There is no career ladder for migrant clinicians and our leadership and advocacy efforts go unrewarded. My colleagues, the unsung heroes of the American health care profession, need your commitment to focus attention on these critical issues and help us to build a viable system of primary care for the migrant and seasonal farmworkers in the year 2000.

Historically migrant and seasonal farmworkers have worked in a system that virtually constitutes social and economic slavery. Until this injustice is recognized and this disgraceful system is changed it will be impossible for health care providers to significantly improve the health care status of these undervalued members of our society.

National Advisory Council on Migrant Health
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TESTIMONY BEFORE THE U.S. COMMISSION ON SECURITY AND COOPERATION IN EUROPE MIGRANT FARMWORKER HEALTH BRIEFING

OCTOBER 9, 1992

DAVID DURAN, CHAIRPERSON
NATIONAL ADVISORY COUNCIL ON MIGRANT HEALTH

Good Morning Mr. Chairperson and Members of this Commission - I am David Duran from Beaver Dam, Wisconsin and I come to you today as a former farmworker and the current Chairperson of the National Advisory Council on Migrant Health.

The National Advisory Council on Migrant Health is a Congressionally-mandated advisory council which advises the Secretary of Health and Human Services regarding farmworker health needs and services. Comprised largely of current and former farmworkers, this fifteen member Council annually develops recommendations regarding migrant farmworker health and submits these recommendations to the Secretary. The farmworker membership of the Council and the Council's advisory mandate make the Council's role and perspective unique among farmworker health advocates.

It is important to note that in developing its annual recommendations, the Council gathers information, not only from migrant health centers, but from farmworkers as well. In the last thirteen months, we have held public hearings in Denver and San Diego in order to listen to farmworkers speak about their health needs and health service concerns.

The stories told, the conditions described, are little different than those heard in 1952 when Senator Hubert Humphrey held eleven days of hearings around the country on migrant conditions. They are little different than in 1961 and 1962 when the House and Senate held hearings considering authorization of what would soon become the Migrant Health Program.

In its 1992 Recommendations, the National Advisory Council on Migrant Health focused on eight areas of concern - housing, outreach, mental health, appropriations, Medicaid, health professions, family issues, and research. Each of you have a copy of these recommendations complete with a background paper on each area, so let me just highlight one area.

It is the experience of health workers and advocates which provides much of the available demographic and health status information about migrant workers. Very little research has been done on this population. Even simple demographic data such as the size, race/ethnic composition, and the distribution of the migrant population are very rough estimates. Reliable health status data are much more elusive.

Needless to say, this void of information impedes the effective planning and implementation of appropriate health care services. The Council has recommended that "at least one percent of PHS329 evaluation funds be dedicated to migrant-specific research efforts, and that every effort be made to secure resources" from federal health research agencies (Agency for Health Care Policy and Research, the National Institutes of Health, and the Centers for Disease Control).

Migrant farmworkers in this country continue to live and work in conditions generally thought to be characteristic of developing countries. Dilapidated, scarce, and expensive housing has led to crowded and unsanitary conditions which have contributed to an infectious disease patern unparalleled in other occupational groups in the U.S. Long hours of physical labor in chemically and mechanically hazardous environments contribute to high rates of injury and chronic disease.

Nearly all migrant farmworkers live in poverty; although these people make it possible for us to buy inexpensively most any fruit or vegetable we could want year-round, most migrant farmworkers do not have enough money to buy these same foods and many are hungry and malnourished. Virtually every inquiry into the health conditions of migrant workers cites the same litany of multiple and serious health problems.

While the U.S. Public Health Service Migrant Health Program has done an admirable job of providing health care services to migrant farmworkers since 1962, its funding is limited. And thus is its capacity to meet the tremendous needs. It is generally believed that the Migrant Health Program serves only about twenty percent of the national migrant and seasonal farmworker population.

There is no general legal right to health care for the U.S. population. As such, there is no legal right to health care for migrant workers. Nonetheless, language from CSCE documents concerning migrant workers asserts that migrant workers should have opportunities and services as available to them as they are available to other workers.

Unfortunately this is not the case with respect to agricultural workers in the United States. Historically there has been a pervasive image of farmwork as "different" than other sorts of work. The classic manifestation of this is the fact that agricultural workers are exempt from a host of federal protective health and safety regulations which cover other workers.

On behalf of the Council, I wish to extend an invitation to the Commission to attend the Council's next public hearing to hear from farmworkers themselves about their conditions. This will take place on October 23 in Portland, Oregon.

Finally, I share with you testimony given thirty years ago to a House Committee Hearing on "Health Clinics for Migratory Farmworkers":

> "It is time we ended this particular American tragedy. The Grapes of Wrath should be a "period piece", not a comment on the current American scene."

Thank you very much.

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Testimony to the Commission on Security and Cooperation in Europe

by Valerie A. Wilk

October 9, 1992

Introduction

Agriculture consistently ranks as one of the three most dangerous occupations in the United States, along with mining and construction. The hired farmworker men, women, and children who tend and harvest our nation's crops face a number of hazards in the workplace. For example, transportation of farmworkers to and from the fields in overcrowded trucks and vans which have had all seats and seat belts removed in order to pack in as many workers as possible, and which are driven by unlicensed, uninsured, and intoxicated drivers has resulted in vehicle overturns and crashes in which dozens of workers have been killed or maimed.

Pesticide poisoning, falls from ladders, back strain from heavy lifting and prolonged bending, and farm machinery-related injuries and deaths are other hazards. Where workers lack drinking water, toilets, and wash water in the fields--and evidence shows that only a small percentage of farm employers fully comply with the federal field sanitation regulations--workers face an increased risk of contracting parasitic infections and other communicable diseases as well as of developing urinary tract infections, and suffering heat stroke or pesticide poisoning. Overcrowded, unsanitary living and working conditions make tuberculosis a growing occupational risk for farmworkers.

I will focus the rest of my remarks on the issue of pesticide exposure to migrant and seasonal farmworker adults and children.

Pesticide Use and Worker Exposure

About 70 percent of the 1.2 billion pounds of pesticide products sold each year in the United States are used in agriculture.

Farmworkers are on the front lines of exposure to pesticides. They absorb pesticides through the skin as they touch foliage and produce that has been treated with pesticides. Too often they get drenched with pesticide sprays while they work in the fields--a clear violation of the federal pesticide law. A pesticide being applied to a field or a work area in a nursery or greenhouse may drift onto workers in adjacent fields or work areas. Migrant farmworkers and their families live in labor camps that are often in the very fields that are being sprayed. Workers may breathe pesticides, drink pesticide-contaminated water, or swallow pesticide residues on food or from workplace contact.

Health Effects

Pesticide exposures put farmworkers at risk for acute or short-term health problems such as pesticide poisoning, skin and eye burns, and rashes. Severe poisoning can be fatal. Moderate or mild poisoning can cause a variety of symptoms, such as nausea, blurred vision, headaches, dizziness, muscle cramps, and vomiting. These immediate symptoms may linger for months after a worker is poisoned.

Human health studies and case reports have linked pesticide exposure to a variety of long-term or chronic health effects. These include: cancers such as leukemia, non-Hodgkin's lymphoma (a lymph node cancer), and multiple myeloma (bone cancer) in adults, and leukemia and brain cancer in children; reproductive effects such as birth defects, spontaneous abortion, sterility, and menstrual dysfunctions; liver and kidney dysfunction; nervous system effects, including problems with motor coordination and thought processes, anxiety, and depression; and abnormalities in the immune system.

Policy Issues and Recommendations

1. Farmworkers must have the right to know what pesticides are used at their workplace and the right to take action where unsafe workplace practices exist.

Even though the Hazard Communication (or Right to Know) regulations issued by the Occupational Safety and Health Administration (OSHA) cover agriculture, the regulations have not been enforced to protect farmworkers. The federal pesticide law, FIFRA (the Federal Insecticide, Fungicide, and Rodenticide Act), does not include a right to know provision for farmworkers. Farmworkers do not have legal protections to refuse dangerous work or to take other actions where unsafe conditions exist.

New Environmental Protection Agency (EPA) worker protection regulations, which were issued in August 1992 and which will go into effect next year, will require that workers get specific pesticide information. Additionally, EPA has proposed hazard communication regulations which will become part of the worker protection regulations. The comment period for those proposed regulations ends October 20th. The most important point about hazard communication is that all information being conveyed must be understandable and usable by farmworkers. Fact sheets must be written at a fourth grade reading level and be available in languages that workers understand.

The example of Benlate--The current situation with the fungicide Benlate, used extensively in the nursery, fern, and greenhouse industries in Florida, illustrates the need for farmworkers' right to know. Since early 1992, Florida growers who suffered crop destruction from Benlate have been reporting a variety of health problems ranging from cancer, birth defects, and central nervous system problems such as severe and frequent headaches, to respiratory problems such as shortness of breath, and swollen, achy joints and chronic fatigue.

The Florida Department of Health and Rehabilitative Services interviewed these growers and their affected family members and issued a report in September 1992 which called for EPA, the Centers for Disease Control, and the National Institute for Occupational Safety and Health to further investigate the situation.

However, the State did not interview any of the employees of the ill growers. Instead, the State acknowledged that were workers aware of the situation with Benlate, hundreds might seek medical care and file workers' compensation claims.

The Farmworker Association of Central Florida, a multi-racial, multi-ethnic farmworker membership organization with offices in Apopka and Pierson, has issued demands to the State about Benlate. Among the Association's demands are that the State notify farmworkers about which growers have used Benlate and that farmworkers and their health care providers receive health effects information. A copy of the Association's recent press release is attached to my statement.

Community Health Centers, the Migrant Health Center in Apopka, has called for the Florida Health Department to provide treatment and illness reporting information to them and to other clinicians treating farmworker patients. We are working with both the

Association and Community Health Centers as part of our Farmworker Health and Safety Institute, which is funded by the W.K. Kellogg Foundation and the Nathan Cummings Foundation.

2. Enforcement of federal and state pesticide laws and of the federal field sanitation regulations must be beefed up.

Even the strongest laws on the books will not protect farmworkers if those laws are not enforced. One of the most egregious examples of the lack of pesticide enforcement and the problems that farmworkers and communities suffer is a 1990 report examining state agency enforcement of federal and state pesticide laws in Arizona. That State's Auditor General's office found that officials routinely refused to investigate complaints or discouraged field inspectors from doing so, conducted incomplete investigations of complaints, and refused to fine even the most flagrant repeat violators.

This example highlights the need for farmworkers to have the statutory right to sue employers to protect themselves. The private right of action is the most effective measure to ensure employer compliance with pesticide protections.

Additionally, enforcement of the field sanitation regulations by the Occupational Safety and Health Administration (OSHA) must be more vigorous.

3. The federal pesticide law must be changed to adequately protect farmworkers.

The federal pesticide law--the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)--is a chemical registration law, not a worker health and safety law. Yet farmworker pesticide health and safety issues are regulated under FIFRA.

As mentioned earlier, farmworkers should not be forced to solely rely on unresponsive federal and state agencies to enforce the law against violating employers. Farmworkers need the right to sue employers who fail to obey the law.

FIFRA contains no statutory protection against employer retaliation towards workers who ask questions about pesticide safety or who reports pesticide violations to the proper authorities. Farmworkers around the country have told us that they fear being fired if they take such actions. We will closely monitor how effectively the anti-retaliation provision in the new EPA worker protection regulations protects farmworkers who assert their rights.

4. Farmworkers must have the right to organize and bargain collectively.

Farmworker unions have gained workplace health and safety protections for their members beyond any federal or state protections. The United Farm Workers of America and the Farm Labor Organizing Committee contracts have included protections that have not been guaranteed for non-unionized workers. For example, union contracts contain bans on the use of certain pesticides, worker right to know, and provision of field sanitation facilities.

5. Special interest groups successfully block farmworker health and safety legislation and regulations, including pesticide reforms, in the U.S. Congress.

FIFRA is under the jurisdiction of the Agriculture Committees. These committees are heavily influenced by the special interest agribusiness and chemical industry lobbies. These lobbies have successfully opposed comprehensive pesticide recordkeeping requirements and stalled the issuance of the EPA worker protection regulations. They are currently lobbying for weakening of reregistration requirements for pesticides used extensively in hand-labor-intensive crops.

6. Unsafe, incompletely tested pesticides are on the market. The current system protects chemicals more rigorously than it does worker or public health. This must change.

Registration of a pesticide by the EPA does not mean that the chemical has been fully tested for adverse health effects. Despite the fact that some pesticides have been on the market for 30 years or more, and that the EPA has been in existence for 20, the EPA has conducted a complete assessment of only a handful of the over 400 active ingredients used in agricultural pesticide formulations.

We must see to it that EPA quickly bans pesticides that are too dangerous for worker or consumer exposure. We must reduce our dependence on toxic chemicals in agriculture and develop incentives that foster this move away from intensive chemical use. We must strengthen EPA's registration process so that dangerous pesticides are not allowed on the market in the first place.

7. The Migrant Health Program must continue to fund and emphasize environmental health services.

An important component of the Migrant Health Act is that migrant health centers provide environmental health services as part of their work. Migrant Health Centers need technical assistance and support to address the environmental and occupational health issues facing their farmworker patients. Unsanitary and overcrowded housing, the lack of field sanitation, and pesticide exposure are problems that contribute to recurring medical visits.

Migrant Health Centers need help in tackling these problems and in learning about environmental and occupational health policy issues. The Migrant Environmental Services Assistance or MESA project run by the Rural Community Assistance Program, Leesburg, Virginia, has provided such support to Migrant Health Centers for over 12 years.

Conclusion

Farmworkers and their families must be protected from a harvest of illness, injury, and death from exposure to poisons, and from other deadly and unhealthy workplace conditions. These briefings by the Helsinki Commission are a valuable way to bring these conditions to the attention of the U.S. Congress and to the American people.

Farmworker Health for the Year 2000

1992 Recommendations of the National Advisory Council on Migrant Health

MIGRANT
HEALTH

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National Advisory Council on Migrant Health

1992 Recommendations

The following recommendations are built upon the foundation of prior years' recommendations, testimony which was presented to the Council in 1991, and ensuing deliberations within the council. A bibliography and comprehensive background statements have been developed to further expand upon each recommendation. **Inherent in each recommendation are the following assumptions:**

- Farmworkers are an employed working class contributing to the economies of the communities in which they live and work. They are America's working poor.
- Farmworkers as a population are no more and no less deserving of the right of access to "safety net" programs than any other group of Americans.
- Their low level of access to services is due to the system's failure to accommodate a migratory work pattern.
- Farmworkers are not to blame for that lack of access; rather, they are a casualty of the system's lack of flexibility.

Nowhere is their dilemma better exemplified than in the administrative practices of the Medicaid program, which cannot accommodate a population which moves from state to state.

The Council also contends that it was not the intent of Congress that the PHS 329 Migrant Health Program meet all of the health needs of this population; rather, these funds should be used in conjunction with all other federal and state public service programs in order to assure the safety and health of farmworkers. **Therefore, we enlist the Secretary's response in order to assure that:**

- All currently available resources are mobilized to also serve farmworkers.
- Migrant-cognizant representation is included in all facets of the Department's activities.
- The Department assumes the responsibility and provides the leadership for coordination of efforts among all other federal agencies and departments.

In 1988, the Migrant Health Program was re-authorized to include specific language regarding case management. Case management must occur at the local level, with the patient the direct recipient of the service. However, it must also occur at a national policy level, between agencies and departments. The Council hereby solicits the Secretary's advocacy at the cabinet level in order to create such a national "case-managed" approach to interagency planning on behalf of farmworkers.

The following recommendations have been developed as practical approaches to secure inclusion of farmworkers in programs which are designed to assure the safety and health of all Americans.

1. Housing

The Council recommends that the Secretary establish an interagency work group, comprised of representatives from HUD, FmHA, Department of Agriculture, and Department of Labor, to analyze the problem of inadequate and unsafe housing for farmworkers and implement immediate and long range solutions to ameliorate this problem.

2. Outreach

Farmworkers, by the nature of their work and lifestyle, are an extremely hard-to-reach population. Conventional strategies to provide health care services have been less than effective. The Council recommends that the Secretary designate resources to expand community outreach services to farmworkers. All new federal initiatives should include a migrant component and a special allocation for this population, thereby making health care more available, accessible, and acceptable. In addition, emphasis should be placed on testing special outreach programs for effectiveness with the farmworker population.

3. Mental Health

Farmworkers are desperately in need of access to mental health and family counseling services. They are less able to access existing community mental health services than many populations due to their constant mobility and the unavailability of culturally sensitive and bilingual mental health professionals. The Council recommends that the current state of crisis in the farmworker family be recognized by the Secretary, and that efforts be initiated to integrate the mental health needs of farmworkers with the services of all federally-funded mental health programs.

4. Appropriations/Re-Authorization

Current migrant health funding reflects an annual expenditure of approximately $100 per user per year, and a penetration rate of approximately 12 percent. If PHS 329 dollars are to be the primary source of health care for farmworkers, that appropriation must be increased in order to reflect a commitment of resources more in keeping with expenditures for other populations. The Council recommends an annual appropriation of $90 million for the Migrant Health Program and comprehensive perinatal care services for F.Y. 1993, with incremental increases thereafter, and requests the Secretary's support of this targeted increase.

5. Medicaid

Great attention has been given to the development of interstate compacts as a means of assuring reciprocity of eligibility and coverage for migrating farmworkers. This alternative should be pursued both legislatively and administratively. However, this effort only partially addresses the problems encountered by farmworkers attempting to participate in the Medicaid program. The increased financial burden to each participating state creates very real disincentives to enrollment of new participants. The Council recommends that a national demonstration program be initiated which would annualize income and standardize eligibility criteria. The goal of such a program would be to enroll farmworkers in the Medicaid program and to eliminate all barriers to that enrollment. A national set-aside of funds for this purpose would eliminate the local disincentives previously mentioned. A national demonstration program would also afford the federal government an opportunity to test one or more models of "national health insurance" as cost-effective alternatives to the runaway costs currently encountered in the Medicaid system.

6. Health Professions

It is critical that solutions for health professions training for migrant and community health centers be multi-disciplinary and both short and long range in nature. By this we mean that efforts should focus not only upon physicians, but also upon nurses, dentists, hygienists, environmentalists, social workers, nutritionists, etc., since the delivery of care to migrant populations requires a team approach. Solutions to yield immediate results for the health professional shortage must be put in place, as well as long range solutions. Specifically, the Council recommends that the Secretary implement programs which will:

- Collaborate with Migrant Education and Department of Labor programs to train migrant youth in allied and clinical health professions.
- Expand loan repayment programs to include the full range of health professionals, especially nurses.
- Provide incentives for health professions training programs to offer more opportunities for training in migrant health programs, including formal linkages with these programs.
- Increase recruitment and retention of minority, Spanish-speaking, and/or culturally sensitive health professionals.
- Place emphasis upon training and placement of dental professionals.
- Establish creative, effective ways for health centers to provide incentive packages which improve retention of providers in all health professions.

7. Family Issues

The Council strongly recommends that all special projects which are designed to strengthen the family include a specific farmworker component in order to assure relevancy to the migrant family. The Council also salutes the women of farmworker families as the central core of the family, and requests that the Secretary's current focus upon women and families be expanded to include farmworker women.

8. Research

Anecdotal information has highlighted various aspects of the hardships of migrant health and lifestyle. However, clinicians, administrators, policy makers, and researchers have been unable to effectively make changes because of the lack of an integrated perspective and sense of priorities for migrant health. Specifically, estimates of the size of the migrant and seasonal farmworker population vary widely. Basic health status indicators such as age-related death rates are unknown. Prevelance rates of the most common causes of death in the U.S. have yet to be studied. Health manpower recruitment and retention strategies have not been adequately characterized for migrant and community health centers. The Council recommends that the Secretary make an overall commitment on behalf of the Department to obtaining health status indicators on farmworkers by sex and age by 1994, and on various farmworker sub-populations by 1998. This will require the commitment of non-service delivery funds to conduct research, assess effective intervention strategies, and evaluate policy impact. The Council recommends that at least one percent of PHS329 evaluation funds be dedicated to migrant-specific research efforts, and that every effort be made to secure resources from AHCPR, NIH, and CDC for the same purpose.

Housing

Migrant farmworkers are temporary residents of the communities in which they work. They provide the temporary, seasonally intensive labor that large-scale and diverse agriculture requires in order to produce crops. The communities that use the labor of migrant farmworkers cannot support permanent work forces large enough to bring their crops in due to the seasonal nature of crop production. Growers depend on the large supply of intermittent labor provided by farmworkers, and the workers depend on the income from their labor. Each would suffer in the absence of the other.

Migrant farmworkers sometimes travel singly, but frequently are accompanied by their families, many of whom also work in the fields. The need of the migrant farmworker population for temporary housing during the peak crop harvesting and packaging seasons has traditionally been met by growers in the form of labor camps.[1,2]

Labor camps have always fallen short of the ideal. A U.S. Department of Agriculture Handbook published in 1970 stipulates that the basic requirements of housing for migrant farmworkers include well-built houses made of materials appropriate to their uses, with adequate lighting and ventilation, access to safe water, and adequate space for the number of people inhabiting each house. The handbook also suggests landscaping the grounds and providing recreation areas and child care facilities. A study of actual migrant farm laborer housing undertaken on behalf of the Department of Health, Education, and Welfare in 1978 revealed a prevalence of housing that was overcrowded, unsanitary, and unsafe, and that sometimes failed to even shelter the occupants from the elements.[2]

The housing sampled in the study ran the gamut from wholly uninhabitable to in need of repair. Of the camps sampled, 53.5 percent required repair and 5.6 percent required replacement. 71.8 percent were judged sound, while 26.8 percent were deemed deteriorated and hazardous. The average number of rooms in a single family dwelling was between one and 2.6, with the average dimensions of rooms being 10'x12' to 12'x15'. Indoor running water was available in only 64.8 percent of the camps, and 21.1 percent relied on privies for raw sewage disposal, while an additional 7 percent resorted to a combination of privies and portable toilets to meet this need. Two thirds of the units lacked any kind of heating system, although they were located in latitudes where heating was necessary. Only about a third of the units possessed interior hygienic facilities. Most of the facilities were inadequately ventilated and did not meet fire escape standards, having only one exit. Bedrooms usually lacked the capacity for the number of individuals housed in each unit, and laundry facilities were generally unavailable. In a large number of units kitchens doubled as sleeping quarters. Of the kitchens surveyed, half had no sink, a quarter had no refrigerator, and 60 percent had improperly vented stoves. Central bathroom facilities often lacked privacy partitions between toilets and frequently did not provide enough toilets to be accessible to the number of workers on site. Barracks-type units designed to house large numbers of single men scored even worse, with 28.8 percent of the shelters not providing basic protection from the elements, and over 50 percent of the barracks not providing heat. The barracks were found to be overcrowded, and no two-story barracks building managed to meet fire escape standards. Even facilities that were licensed, and therefore presumably monitored, showed evidence of fly and mosquito breeding, rodent harborage, and trash burning as well as broken windows, torn screens, damaged steps, roofs, foundations and shells. Sanitation in the form of garbage storage and sewage disposal was found to be inadequate.[2]

The health implications of these housing conditions are alarming. Cold, damp interiors are associated with an increased incidence of otitis and respiratory infections, which occur more frequently among farmworkers than in the general population.[3] The presence of a toilet in a sleeping area is associated with an increased incidence of gastrointestinal distress, anorexia, and gastroenteritis. Substandard and unheated rooms are associated with an increased incidence of measles and upper respiratory infections. Single-bed usage by families is associated with an increased incidence of impetigo and emotional distress. Multi-use sleeping rooms are associated with an increased incidence of bronchiectasis, disseminated tuberculosis, influenza, and tonsillitis. The lack of laundry and hygienic facilities leads to bathing and laundering in kitchen sinks, exposing food preparation surfaces to the pesticides and fertilizers that workers are exposed to in the fields.[2]

At the time (1978) the deplorable state of migrant farmworker housing was blamed on insufficient monitoring by regulatory agencies. OSHA was the primary federal regulatory authority in charge of monitoring migrant farmworker housing, and was considered to be doing a poor job due to a lack of personnel and to confusion concerning its mission in regard to migrant farmworker housing.[2] Since 1978, other agencies, most notably the Department of Labor Wage and Hour Division, have also assumed regulatory power over migrant farmworker housing, enforcing regulations more stringently and levying fines for substandard housing. Ironically, this has led to a deterioration rather than an improvement in standard of living for migrant farmworkers since the assessments of 1978.[4]

With stricter enforcement of standards regulating labor camps, many growers or camp operators are forced to choose between facing fines for violations, costs for renovations, or closing the camps. Many can afford no other option than to close the camps.[4] Jesus Tijerina, a crew leader, testified, "In the last year five camps in this area have closed. This means that more than 150 units have been closed. Usually in a unit you can have a family of five. The work has continued as before and the same amount of migrants keep coming back every year."[5] In areas where housing is only in use for part of the year, as is the case with most migrant farmworker housing, loan programs for farmworker housing (Sec. 514/516 Farm Labor Housing Program) do not meet the needs of growers and operators. In the absence of some type of affordable financial assistance, most growers are unable to respond to the housing needs of the migrant farmworker population. It is estimated that fewer than 5,000 new units have been built since 1980.[6] Yet, since the end of the 1990 growing season, Colorado alone has witnessed the closing of almost 40 percent of its grower-provided housing units.[4] A Colorado vegetable grower told the National Advisory Council on Migrant Health, "Since a year ago it was my policy to burn all the houses down because there was no way that I could comply... This kind of pressure drives me against the wall and I wonder whether it is really worth ... caring for the human element."[7]

When migrant farmworkers cannot find lodging in labor camps they must seek it privately. In the rural areas where they work there is a shortage of available private housing, and private housing is not subject to federal regulation. The private housing that is made available to migrant workers tends to be substandard and relatively expensive. One worker noted, "Right now we are looking for apartments, and barely make [enough] to pay the rent. We pay $375 per month and they also want a deposit of $250 per apartment, $100 for gas, $50 for electricity. So you need $750 to get a house. It takes three weeks to make that much to pay the bills."[8] Frequently, the workers find themselves in worse dwellings than the camps which were closed, or with no dwelling at all. Yet the seasonal influx of population in these areas puts even this squalid housing at a premium. The only alternative to expensive, poor-quality shelters is living in a car or in the open.[4]

The migrant farmworker population is impoverished and comprised primarily of minority populations.[2] The U.S. Department of Labor reported in 1991 that seasonal agricultural workers received a median hourly wage of $4.85. However, these workers only worked about 34 weeks per year; fewer than half were covered by unemployment insurance, and fewer than one fourth had health insurance.[9] A family of eight working together all day may earn as little as fifty dollars or less.[10] Migrant farmworkers frequently meet resistance to their presence in private neighborhoods in the form of hostility or price gouging. In one case this year, seventeen individuals shared one run-down two-bedroom house, on which they were marginally able to afford the rent. At their current economic level, many migrant farm laborers will not be able to afford to continue working the crops in the absence of free or subsidized labor camps that have traditionally been provided by the grower.[4]

The phenomenon of migratory workers engaged in temporary work is no longer limited to rural areas. A new population of migratory temporary day laborers is being recognized in urban areas. In these cases, there are no traditions to support their presence and many communities are rejecting them whether they are seeking work or seeking shelter. In Orange county, California, it is found that frequently these individuals have no conventional shelter, but live in makeshift camps of cardboard, wood, and plastic hidden in canyons near towns. The county health department is routinely called in to close and bulldoze the camps for sanitation violations. No alternative shelter is provided, and some citizens groups have gone so far as to attempt to limit funding for charitable organizations that offer aid to these workers. At the same time,it is acknowledged that there is a need for their labor.[11]

The deplorable state of housing for migrant workers is an accelerating crisis that will have a profound impact on both employers and workers with deep implications for the agricultural economy. Poor housing is rapidly becoming non-existent housing. Without decent, affordable housing, fewer workers will be able to make the seasonal work migrations, and those who do will face housing conditions worse than those of the previous decade for themselves and their families. Without the necessary seasonal labor provided by migrant farmworkers, growers will not be able to maintain their current rates of production, and will be less able to afford to provide and maintain adequate housing for the migrant farmworker population than they have been previously.[4] The four agencies listed in the 1992 Recommendations of the National Advisory Council on Migrant Health are in a position to significantly impact the migrant worker housing situation. If they coordinate their efforts and resources we may draw nearer to the time when safe and adequate housing will be available for our migrant workforce. Meanwhile, the migrant farmworker housing situation is caught in a downward spiral.

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Outreach

The need of migrant farmworkers for medical attention is well documented, and federally-subsidized migrant health clinics exist, but statistics show that less than fifteen percent of the target care population is able to access their services.[1] This is believed to be due to the fact that the clinics are located, due to financial constraints, in cluster areas where large numbers of migrant farmworkers will congregate for peak agricultural work seasons. Unfortunately, this by no means insures geographical proximity to a clinic for the majority of farmworkers.[2] Even when affordable health care facilities are available, migrant farmworkers experience greater difficulties accessing them than the mainstream population.

The population of migrant farmworkers as a group are poor, uneducated, frequently isolated, and chronically under-employed. Statistically they suffer from an array of health problems for which treatments are available, but to which they lack access.[2] A number of farmworkers testified before the National Advisory Council on Migrant Health that they were simply not aware that services were available. One said, "We follow the harvest from California to Colorado. I am not aware of aid or help. We don't know how to get it."[3]

In North Carolina, 67 percent of migrant farmworker families interviewed were able to subsist on their income but were not able to meet emergencies. Twenty-five percent were not able to subsist on their income or meet emergencies. Twenty-two percent were living in unstable relationships, six percent were living in abusive relationships, and ten percent showed evidence of child abuse or neglect. Thirteen percent of the children in this group showed evidence of stunted growth, which is thought to be an indication of poor nutrition, possible recurrent infections, and intestinal parasites. Twenty-four percent of the children suffered from anemia, and another 24 percent from diarrhea.[4]

A recent survey found that multiple and complex health problems existed among over 40 percent of all farmworkers who visited migrant health clinics.[5] As a group, migrant farmworkers experience a life span that is approximately 30 percent shorter than the national average, and an infant mortality rate that 25 percent higher than the national average.[6,7] The need of migrant farmworkers for health and social services is obvious, but a number of facts account for their difficulty in obtaining necessary health care.

The migrant farmworker population is comprised of a number of races and ethnicities, with the majority being Hispanic. Many individuals do not speak English as their primary language, and thus experience difficulty when they attempt to acquire medical attention or apply for social services.[8,9] Migrant farmworkers frequently lack transportation and cannot get from the job site to a clinic. Their physical and linguistic isolation may leave them unaware that services they need are even available.[2] Conventional business hours are also prohibitive to migrant farmworkers who need health care. Many cannot afford to lose a day's wages in order to come to a clinic or office during traditional business hours, and so forego care.[10] Services are often divided between agencies or institutions, thus compounding the difficulties that migrant farm laborers experience with time, transportation, and translation when they seek care.[2]

In response to the difficulty that migrant farmworkers experience trying to access the system, outreach programs have been developed which attempt to take services to the migrant farmworkers. In order to implement outreach programs it has been found necessary to assess the composition of the local migrant farmworker population in order to address their specific needs. The federal Migrant Health Program defines outreach as making services known to the population and insuring that they can access all the services which are available. Outreach programs, according to the Migrant Health Program, should improve utilization of health services, improve effectiveness of health services, provide comprehensive health services, be accessible, be acceptable, and be appropriate to the population being served.[2] These guidelines recognize the demographic and cultural diversity that is encountered within the migrant farmworker population and the flexibility that is required to connect the workers with the services.

The demographic nature of the migrant farmworker population varies with location. The migration routes followed by migrant farmworkers are referred to as migratory streams. The home state is usually in the south and is referred to as downstream, while the work states are upstream. The three predominant streams are the east coast, midwest, and west coast streams.[1] A study in Oregon, a state in the western stream, found that the migrant population there was overwhelmingly Hispanic,[10] while in North Carolina the population was found to have a majority composition of Hispanics, but also to contain Blacks, Haitian and other Caribbean immigrants, Whites, and Native Americans.[11] While the Oregon program could reach its target group by having staff who were bilingual in English and Spanish, the North Carolina program needed trilingual speakers of Creole as well as Spanish and English in order to communicate with their target group. In order to be effective, outreach programs must be appropriate to their unique circumstances.

Three significant outreach programs developed in three different states are using varying means to successfully reach migrant populations that were previously isolated from necessary health and social services. Although there are numerous other outreach programs in place at both the local and state levels, the designs of these three have been thoroughly documented and will serve for discussion purposes. In North Carolina, the Department of Maternal and Child Health of the School of Public Health at the University of North Carolina at Chapel Hill has initiated an outreach plan in conjunction with the Tri-County Community Health Center (TCCHC), a federally-funded migrant health clinic. This program utilizes the services of lay health advisors recruited from the migrant farm labor camps to disseminate health information and identify individuals in need of health services.[11] The Farm Labor Camp Outreach Project implemented through Salud Medical Center in Oregon uses a van to take medical services and educational materials to migrant labor camps.[10] The Midwest Migrant Health Information Office in Michigan administers a state and privately-funded program which trains individuals from the migrant labor camps as camp health aides.[12]

The Maternal and Child Health Migrant Project, administered in North Carolina through TCCHC, focused on assessment of the health and nutritional status of pregnant women and children, and on means of improving their condition. It also set out to develop model protocols and a data collection and reporting system to assist migrant health center staffs in the management of high-risk mothers and children, to design and implement systems linking available resources for migrant farmworkers, to demonstrate the effectiveness of lay health advisors in disseminating accurate, culturally appropriate health information to the migrant farmworker population, and to develop educational modules based on the realities of migrant life to be used by migrant health care delivery services.[11]

The clinic staff found the major barriers to accessing health care among migrant workers to be lack of transportation, inability to speak English, and a lack of access to child care. The clinic responded initially by hiring staff who were bilingual in English and Spanish, and later also in English and Creole. The clinic utilized a bus to transport migrant farmworkers to appointments, but found this to be insufficient and implemented the services of volunteers to aid in transportation also. The project coordinated the services of the local county health department, social service agencies, local hospitals, Migrant Head Start center, and WIC, thus helping to connect the migrant farmworker with the necessary social service with the least amount of inconvenience. The center's maternal health nurse arranged for bilingual clinic staff to assist with deliveries in local hospitals in exchange for systematic referral of TCCHC patients for postpartum care. This improved the working relationship between the hospitals and the center, and increased the center's notification of patient deliveries. Recognizing a flow in the migrant stream between North Carolina and Florida, the center also made contacts in Florida to establish a tracking system for TCCHC patients. In order to overcome the language and cultural barriers to seeking health care within the migrant farmworker population, the concept of lay health advisors was developed.[11]

The goals of the lay health advisor training program were to instill an "everymother" knowledge of general maternal and child health issues and community resources in the participants, as well as the display of an affirming, non-judgmental attitude in their role of helper; for helpers to be able to share effectively with their peers; and for helpers to be able to follow a problem-solving methodology.[13] To this end the program recruited women from the migrant labor camps who had a reputation of leadership ability, peer respect, attitudes of empathy or caring, interest in learning about their health and the health of their children, and an understanding of the importance of sharing that knowledge with family and friends.[14] They were given fourteen hours of training on their role as advisors, child growth and development, infant and child nutrition, diarrhea and dehydration, safety and environment, family violence and community resources, and dental health. The advisors were tested on these subjects before and after training, showing a significant increase in their post-training knowledge. One lay health advisor recognized the symptoms of meningitis in her own child immediately after training on the subject.[15] Lay health advisors reporting having several contacts a week in the camps with people who needed advice about seeking treatment. They referred pregnant women to the center, identified and requested assistance for cases of spouse abuse, and in one case identified the need for follow-up treatment on a post-surgical case.[11] Psychological tests showed lay health advisors scoring higher than other migrant farmworker women in terms of self efficacy, development of a positive social identity, measures of collective empowerment, and the ability to conceptualize appropriate action in specific situations. The lay health advisors themselves attributed these results to their experiences with the program.[16] Statistical data does not show a significant change in the incidence of specific disease rates in the camps where lay health advisors operate,[17] but anecdotal evidence shows that their presence is having a positive impact on the migrant labor camps they operate in.[11] Also, the influence of lay health advisors does not end when they move on to the next migrant labor camp. In this way the influence of the TCCHC program is extended beyond its sphere of immediate influence through the eastern migratory stream, and migrant farmworkers are enabled to take measures to help themselves.

The Farm Labor Camp Outreach Project at the Salud Clinic took the clinic to the workers. A medical van was outfitted with necessary supplies to conduct on-site medical screening tests and educational programs. Bilingual staff were hired to spare workers the embarrassment of discussing their health problems through a translator. The visits to the migrant labor camps were coordinated, with the help of the growers, to coincide with peak crop seasons in order to reach the greatest number of workers possible, and visits were made after work hours in order not to conflict with work schedules. The clinic itself remained open until 8:00 p.m. twice a week to accommodate migrant farmworkers' work schedules. Workers were screened for hypertension and anemia, and educational sessions were conducted on sexually transmitted diseases, AIDS, pesticides, nutrition, hygiene, parasites, anemia, diabetes, hypertension, immigration, substance abuse, and tuberculosis. The van also carried referral forms for medical treatment and applications for WIC. If patients were found to need treatment, appointments and transportation were scheduled for them. Preventive information on disease was provided and eagerly received.[10]

The Midwest Migrant Health Information Office (MMHIO) camp health aide program was developed by the federal government in conjunction with the Catholic Consortium for Migrant Health Funding to establish a model program which individual states would then be encouraged to take over. In this case, the State of Michigan has assumed full responsibility for the program within its borders. Camp health aides are recruited much the same way as the lay health advisors in the North Carolina study, with similar goals and outcomes. The presence of the camp health aides has helped to overcome the language barrier, prejudice, and long work hours that prevent many migrant farmworkers from gaining the medical information and attention they need.[12] Camp health aides and lay health advisors are members of the migrant population themselves, and remain identified with their culture in the eyes of their peers. Their example reinforces the idea that preventive health care has value, while the information they provide encourages their contacts to assume control of their own health care rather than depending on outside intervention.[13,14] MMHIO is now working to extend its outreach work to the downstream home bases of migrant farmworkers.[17]

Outreach programs range from taking services to the target population to training the target population to serve itself. In all cases they serve to bring people and services together which otherwise would not connect. The migrant farmworker population is particularly vulnerable, needing aid yet frequently lacking the means of access or even of communication with the sources of aid that exist to help them. Outreach programs are effective means of consolidating the fragmented social services that frequently frustrate the attempts of migrant farmworkers to seek aid. Properly administered, outreach programs can serve not only to gain access to resources for migrant farmworkers, but also can guide them toward self-sufficiency.

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Mental Health

Migrant farmworkers face enormous difficulty obtaining the basic necessities of life: food, shelter, and medical attention. They are poor, under-educated, subject to economic uncertainty and unsanitary living conditions. They frequently face prejudice and hostility in the communities where they stop to work.[1] Father Thomas More of the Colorado Migrant Rural Coalition testified that, "The migrant worker who comes [to Colorado] from Texas is... not allow to speak up in matters which would require a change in legislation... The people whose lives are affected... are not involved in the decision making."[2] The mobile nature of the farmworker family's occupation often precludes access to mainstream health care services. Their need for mental health services goes almost unaddressed, even though the harsh conditions under which they live has been correlated with an increased incidence of mental health problems.[1,3]

In his Children of Crisis series Robert Coles, a physician and child psychiatrist, characterizes the psychological pressures of growing up in the cycle of migrant farmwork: "How literally extraordinary, and in fact how extraordinarily cruel, their lives are: the constant mobility, the leave-takings and the fearful arrivals, the demanding work they often manage to do, the extreme hardship that goes with a meager (at best) income, the need always to gird oneself for the next slur, the next sharp rebuke, the next reminder that one is different and distrincly unwanted, except, naturally, for the work that has to be done in the fields." Dr. Coles continues,

> *There is ... the misery; and it cannot be denied its importance, because not only bodies but minds suffer out of hunger and untreated illness... Migrant parents and even migrant children do indeed become what some of their harshest and least forgiving critics call them: listless, apathetic, hard to understand, disorderly, subject to outbursts of self-injury and destructive violence toward others. It is no small thing ... when children grow up adrift the land, when the learn as a birthright the disorder and early sorrow that goes with peonage, with an unsettled, vagabond life.*[4]

Studies relate some of the stresses entailed by life in the migrant streams. A former migrant farmworker testified before the Department of Labor in 1974 to the conditions she had experienced while living and working in the migrant stream.[3] Due to low income, her family had no choice but to live in the labor camps provided by the growers. These camps were isolated, miles from towns and grocery stores. There were no recreational facilities or medical facilities. The houses had no heat or ventilation. Frequently there was no stove to cook on, and no place to store food where it was safe from vermin. The houses were overcrowded, and there was no privacy for such personal functions as bathing or using the toilet. Although her mother was a diabetic, the family had neither access to medical treatment for her nor means to purchase or prepare the kind of foods her condition required. Other studies recount the lack of privacy for adults for sexual relations[1] and long grueling hours of manual labor for low wages entailed by farm work, as well as the inherent health risks of farm labor (i.e., pesticide exposure and accidents).[1,3]

Economically the migrant farmworker is at the mercy of the weather. Rain or unseasonable weather can disrupt their work schedule and create economic havoc for them. In addition, migrant farmworkers tend overwhelmingly to be members of minority groups, with the majority being Hispanic. Although their labor is vital to the farming communities through which they work, migrant farmworkers frequently experience prejudice and hostility to their presence. Stress factors such as these have been strongly correlated with mental breakdown, self-destructive behaviors, and the need for mental health treatment.[1]

The stresses of the migrant farmwork situation are expressed both tangibly, through chronic health problems, and intangibly in emotional turmoil. Anxiety often takes the form of somatic symptoms such as headaches and neck pain.[1] Drug and alcohol abuse occur in high numbers.[5] Stress creates family situations that are often unstable, and sometimes abusive. Conflict erupts when children identify with the mainstream lifestyle and their parents enforce traditional values, fearing that their families will disintegrate.[1] Individuals with special problems are subject to further stress, as exemplified by the homosexual migrant farmworker who told an interviewer he had no one to talk to since he was sure his family would disown him if he revealed his secret to them.[6] The traditional solution to problems is for individuals to adapt to problems rather than attempt to change the circumstances that cause the problems. And so the problems are perpetuated.[1]

Delivering mental health services to the migrant farmworker community is not a simple matter. Migrant farmworkers are often unaware that services exist, so they do not seek them out.[7] The fact that farmworkers move so frequently makes it difficult for them to acquire care for chronic problems, and the physical barriers to delivery services are formidable. Most farmworkers are isolated geographically from clinics and care facilities; they frequently lack transportation and/or child care, and traditional clinic hours conflict with their work schedules and thus are prohibitive. But language and cultural barriers are two of the greatest deterrents to bringing necessary mental health services to migrant farmworkers.[3,7]

In addition, there is a critical lack of funding for farmworker-specific mengal health efforts. One author states, "Mental health care for migrants has never been given consideration or time by the migrant [health] clinics or any other medical system in the United States."[7] Public mental health services in this country are funded primarily at the state level, with funds "flowing down" to provide services in local areas. While this method is adequate to serve stable populations, it does not meet the needs of a farmworker community which must be constantly moving by the very nature of its work. Funds are needed at the national level to develop outreach capabilities which will allow mental health services to be taken to the farmworker rather than vice versa.[7] A work group funded by the Office of Substance Abuse Prevention recently recommended increasing appropriations for farmworker-specific mental health services at all levels, in addition to developing state and local strategies such as block grants, to address farmworker substance abuse prevention. The group also stressed the use of lay health workers and the integration of mental health and substance abuse services with migrant health clinics as mechanisms to improve access.[8]

Mainstream Anglo culture does not look favorably on individuals who are poor, uneducated, transient, and ethnically distinct.[7] Migrant farmworkers are all of these things. The mainstream stereotype of the typical Hispanic is of a shiftless, dumb, illiterate, violent, drunk whose poverty is somehow indicative or moral turpitude.[1] Because they move frequently, disrupting their education, migrant farmworker children are often labelled "slow learners."[7] These negative appraisals are frequently incorporated into the self-image of the individual, resulting in low self esteem which is associated with a sense of powerlessness and depression.[1] It should not be surprising, then, that a mainstream clinic staffed with Anglo practitioners would be viewed as an alien and hostile environment, and not conducive to treatment that requires sympathy, trust, and understanding between practitioner and client.[3] For mental health intervention to be effective it cannot be only physically accessible, it must be culturally acceptable as well.

The mental health of an individual is composed of complexities of belief, thought, and emotion. Such concepts are often expressed in language by idioms, terms that are understood culturally but which literally may make no sense. Thus, when an Anglo practitioner listens to a young Hispanic woman telling him that she hears voices telling her to enter a convent, he may make a pathological diagnosis of auditory hallucinations with religious content when actually the woman is employing a figure of speech as harmless as saying she has a calling to the religious life.[1] If a practitioner lacks either the cultural or linguistic capability to detect such nuances, how is he or she to make an accurate diagnosis?[3] An example of the extremes such insensitivity can lead to is the 1966 finding that 30,000 Spanish-speaking Hispanic children in California had been placed in classes for the mentally retarded after being tested for mental capacity in English.[5]

Understanding the patient's language is necessary in order to deliver mental health services. But mere knowledge of language is insufficient for comprehending the delicate shades of meaning that are expressed when people speak about their emotions. These shades of meaning can easily be lost or misconstrued through an interpreter or if the client must translate his or her thoughts into English before speaking. To truly understand what a patient is saying, the practitioner must understand the client's cultural background as well as language. For this reason, the migrant farmworker community would best be served by practitioners who are bicultural as well as bilingual.[1,3] As one rehabilitation coordinator commented, "[Mental health support groups] is a service that's provided to the Anglo community through mental health or private psychiatrists, but it is not provided for the farmworker. It's not even provided for the Hispanic population overall."[9]

Hispanic culture views illness differently from the way mainstream Anglo culture does. This is an important consideration because Hispanic members of the migrant farmworker population run the gamut from being fully immersed in mainstream American culture to being entirely traditional with no English-speaking capability. While the mainstream culture regards illness as an impersonal and blameless event, the result of germs or fate, the traditional Hispanic culture regards illness and health as being connected to harmony between the natural and the supernatural. Thus, an individual's illness reflects on his or her relationship with the community and with God, and a system of folk medicine has developed to restore harmony to the body and the spirit when these relationships somehow become unbalanced.[1,3] In order to be able to treat individuals who believe in this value system, it is necessary to understand what they believe about their own condition. It is also necessary to determine if the patient is reporting all problems or dividing treatment between conventional and folk practitioners. If the practitioner is not well versed in Hispanic culture and is ethnocentric and judgmental, the patient is likely to be alienated and uncommunicative. But even if the practitioner is sympathetic, it is not going to help to communicate on delicate and complex issues if he or she literally does not speak the same language as the client.[3]

In order to provide mental health services to Hispanic migrant farmworkers there must be compatibility between patients and practitioners in matters of language and culture. Staffing migrant health care facilities with bilingual and bicultural practitioners would be a pragmatic step in that direction. It is important for practitioners to be aware of what is considered polite and appropriate as their relationships with their clients progress. These concepts are expressed in the Spanish language, which a formal and an informal form of address. The latter is used between friends and intimates, but is insulting or patronizing if used with new acquaintances. If a practitioner initiates treatment by accidentally insulting the client it is doubtful that there is going to be a favorable prognosis.[1] Likewise, it is important for the practitioner to understanding the stage of acculturation of the client. A client from a traditional background who is determined to acculturate is subject to numerous stresses associated with rejecting the culture he was raised in while simultaneously being cut off from the support system that culture provided. An individual who retains traditional beliefs may experience culture-specific illness such as "mal ojo" or evil eye which will not disappear with ridicule, but must be addressed respectfully. To function in this scenario, a practitioner must be culturally enlightened.[1]

Bilingual, bicultural programs have been implemented successfully through medical clinics. The Camp Health Aide program in Michigan, which was implemented primarily as a medical outreach program to migrant labor camps, found that migrant farmworker volunteer camp health aides experienced an increased sense of self esteem and empowerment.[10] La Clínica in Washington State established "Las Comadres," a gathering place for migrant farmworker women who were depressed and cut off by migration from the feminine support network they had at home. The resulting access to peer support yielded favorable results.[1] It has also been suggested that establishing mental health resources for migrant farmworkers in proximity to primary care clinics could help alleviate the stigma associated with seeking mental health services as well as reducing transportation barriers.[1]

The migrant farmworker population is subject to pressures which greatly increase their risk of suffering from some form of mental illness. Their mobility complicates the difficulties involved in providing mental health care for them with the problem of how to provide continuity of care to a transient population. The linguistic and cultural background make it necessary for programs which deliver services to them to also be bilingual and bicultural or risk being ineffective. Relevant mental health services are simply not available in sufficient quantity to even begin to meet the need.

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Appropriations

During the late 1930s and early 1940s, the Farm Security Administration (later part of the U.S. Department of Agriculture) constructed Farm Security Camps at major points of farm labor demand. The camps provided housing, basic health care services, and referrals to cooperating physicians or hospitals. In 1946 the Department of Agriculture's farm labor program provided health care to more than 100,000 workers. This program was funded almost wholly by federal appropriations, and became a casualty in 1947 when Congress terminated all wartime emergency programs. One observer comments, "What Congress failed to note at the time was that the needs of seasonal farmworkers amounted to a continuing emergency that started before the war and lasted afterward.[1]

Change began slowly, primarily at the state level, in the 1950s, but conditions for farmworkers went almost unregulated by federal law until the passage of the Migrant Health Act. The Act, signed into law by President John F. Kennedy on September 25, 1962, established the authorization for delivery of primary and supplemental health services to migrant and seasonal farmworkers. Funded under Section 329 of the Public Health Services Act and administered by the U.S. Department of Health and Human Services, the Migrant Health Program has been a strategic partner in the delivery of health care services for thirty years. The Migrant Health Act was devised to make health care services accessible to migrant farmworkers and their families by helping states and local communities adapt their existing health care system to meet the unique needs of this population. The initial appropriation of $3 million was intended to pay for only part of the project costs; it was hoped that contributed funds from public and voluntary sources would be used to the fullest extent possible.

In the first year, 52 organizations were approved for Migrant Health Program support. According to the Senate Subcommittee on Migratory Labor in 1967, "The work is well begun... Still the need has not ended. Service coverage remains weak in many of the areas where projects are now receiving grant assistance. Three-fifths of the counties identified as migrant home-base or work areas are still untouched."[2] Grants under the Act in its first few years were generally small, and had to be supplemented with other resources. Beginning in 1965 and in subsequent years, "each time that the term of the legislation neared its expiration date, Congress extended the law and increased the annual authorization of funds. However, actual annual appropriations nearly always lagged behind the authorized level. Thus in 1983 the authorized ceiling was $47 million but the actual appropriation was $38 million."[1]

Today there are over one hundred migrant health projects whose 539 clinic sites provide services to over 500,000 migrant and seasonal farmworkers and their families in 33 states and Puerto Rico.[3] In spite of this progress, the heavily-utilized services of existing projects are still able to serve less than fifteen percent of the estimated migrant and seasonal farmworker population in need. The misfortunes of the migrant worker are far-ranging, and are reflected in their overall poor health status. Migrant and seasonal farmworkers require a health care delivery system which offers effective, migrant-specific, culturally tailored health care.

Studies have shown that the migrant population is at greater risk and suffers more problems than the general population of the U.S. Since 1962, migrant health centers have struggled to serve the farmworkers who make up the backbone of this country's agricultural work force. However, the ongoing battle to provide services to this population is being lost.[4] A 1988 Report of the Labor and Human Resources Committee noted that:

> *The Committee is aware that [case management] services–which were once an integral part of a typical health center's service package–are today offered by fewer than one-third of all C/MHCs. In most cases, these services were either reduced or eliminated due to funding constraints... [yet] these very services have been cited by numerous independent experts... as being particularly important in serving high-risk, hard-to-reach populations, such as ... migrant farmworkers and new immigrants...*
>
> *... it is the Committee's desire that, as additional funds are made available for these programs through future appropriations, priority should be given to the development or restoration of the patient case management services at existing health centers.*[5]

As noted by the National Association of Community Health Center, "Severe limitations on the federal budget in recent years have seriously affected [community and migrant health] center growth. Federal policymakers have attempted to aid centers in a number of ways... yet the demand for services far outpaces these small gains... Yet the mere existence of health centers has been an aid to local economies. By stressing preventive care in the communities they serve, indigent reliance on hospital emergency rooms has been markedly reduced. Immunization and prenatal care rates are considerable higher among eligible C/MHC users than comparable community residents who do not use health centers."[6]

Rapidly escalating medical costs have made the funds available for farmworker health services less and less adequate. For example, "The 1984 migrant health appropriation was three times the amount in 1970. However, per capita health expenditures for the nation during the same period increased 3.5 times."[7] Figure 1 depicts the appropriation history for Migrant Health; if the program had kept pace with the consumer price index for medical costs, the current appropriation would be $87.9 million (Figure 2). The $90 million recommended appropriation includes this figure plus additional funding for comprehensive perinatal services for farmworkers.

A 1985 report published by the National Migrant Worker Council aptly stated, "To expect a minimally funded Program to meet all the health needs of a deprived population in a time of high and rising costs is to expect the impossible ... At every level of operation, the Program generally lacks the funds and the staff required for full effectiveness in building and maintaining the kinds of coalitions with other public and voluntary groups that would bring the effectiveness and scope of service of grant-assisted projects to their maximum."[7] The extent of farmworkers' unmet need for

Figure 1
Migrant Health Program Total Funding and Medical/Dental Users: 1987-1991

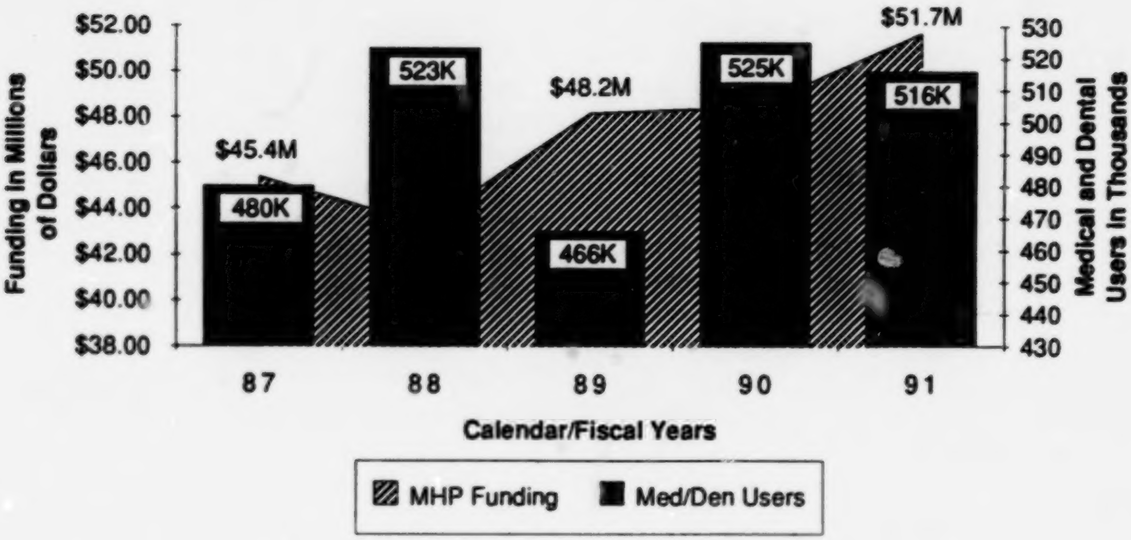
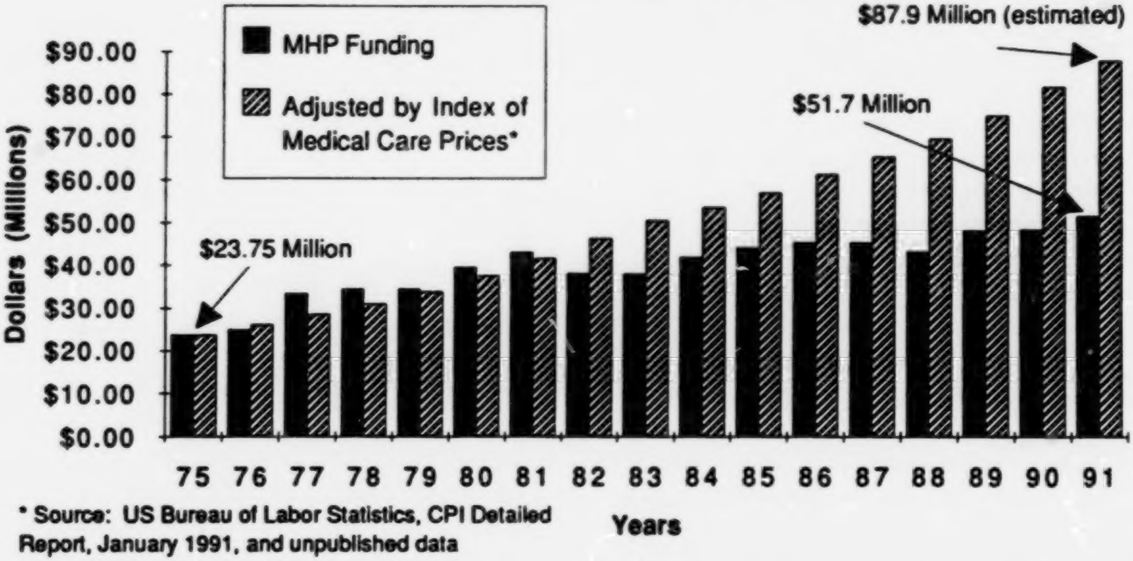


Figure 2
Growth in Medical Care Costs vs. Migrant Fund 1975-1991 Using 1975 as Base



* Source: US Bureau of Labor Statistics, CPI Detailed Report, January 1991, and unpublished data

basic health care services is not only a national disgrace, but also a national challenge. In order to improve the overall health status of farmworkers in this country, a major appropriation increase for the Migrant Health Program is necessary.

In the late 1960s, Congress expressed the desire for the eventual expansion of programs for the general population to cover services to farmworkers. Congress noted, "However, for the foreseeable future ..., this program, because of its importance to the health of the American people, should be considered as a permanent and separately identifiable program..."[8] By 1985, a new report indicated that, "Nationally, ... the Migrant Health Program serves as a nagging reminder of the continuing health problems of migrants... The separately identifiable health service program first envisioned by Congress ... seems as much needed today as it was in the beginning."[7]

The conclusion reported by the Public Health Service in 1954 remains pertinent today:

> *Migrants present the gamut of needs for health, education and welfare services–needs which are intensified by their economic and educational status and by the fact of their migrancy. Challenges to official and voluntary agencies lie in finding ways to coordinate required services locally and to make these services continuous as migrants move from place to place... At stake are the health and welfare of ... people who make a vital contribution to our national economy as well as to the health and welfare of the communities through which they move.*[9]

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Medicaid

The exact composition of the migrant farmworker population is not known; however, its numbers are estimated to fall between three and five million.[1] Thirty-eight percent of this population consists of women and children under the age of fourteen.[2] The average annual migrant farmworker family income is substantially lower than the national poverty threshold, and migrant farmworkers experience more health problems than the general population. Migrant farmworkers precisely fit the profile of the population the Medicaid program was designed to protect. Yet, as a group, migrant farmworkers have more difficulty accessing the benefits of the Medicaid program than any other population in the nation.[1]

The Medicaid system was designed to form a "safety net" for the lowest-income members of society.[1] It was meant to insure that impoverished citizens, especially pregnant women and children, had access to adequate health care. The Medicaid program is federally mandated, but is administered by individual states. The federal government has provided broad guidelines for the program, but these guidelines are open to interpretation by individual states and the process of administering the Medicaid program is not uniform between states.[3]

Migrant farmworkers make their living by working the peak seasons of agriculture. This entails moving frequently to obtain hard labor at low wages, living in sub-standard housing conditions, and exposure to numerous health hazards.[4] Many migrant farm laboring families travel as a unit, with as many family members working as possible. Each state in the union utilizes the labor of migrant farmworkers. It is not uncommon for a migrant farm laborer to spend less than a month in one locality.[1] This fact alone accounts for one of the greatest obstacles migrant farmworkers face when they attempt to access the Medicaid system.

The law allows migrant farmworkers to apply for Medicaid in whichever state they are working.[1] However, states are allowed forty-five days to process an applicant's eligibility forms. By the time this process is complete, many migrant farmworkers have had to move on to the next job, which will frequently be in another state.[2] Once a worker's eligibility for the program is established, it must still be re-validated every one to six months, depending on the state and the eligibility category.[1]

Almost half of the nation's migrant farmworkers have less than a ninth-grade education. Many of them do not speak English as their primary language (although they were born in the United States), and most states provide application forms in English only.[2] Frequently, migrant farmworkers lack transportation to the appropriate office; this difficulty is compounded in states which require multiple visits to complete the application process. And coming to an office during traditional office hours, the hours maintained by most state agencies, means the loss of a day's wages or even the loss of employment to migrant laborers.[1] There are no provisions to streamline this process even for pregnant women and infants, a group for whom Medicaid benefits were recently expanded.[2]

The need of migrant farmworkers for health benefits is great. The infant mortality rate among migrant farmworkers is 25 percent higher than that of the general population.[2,5] The average life expectancy for a migrant farmworker is 49 years, compared to the national average of 73 years.[5] Migrant farmworkers are subject to more accidents, dental disease, mental health and substance abuse problems, and as a population suffer a higher incidence of malnutrition than any other sub-population in the country. They also experience high rates of diabetes, hypertension, tuberculosis, anemia, and parasitic infections,[6] while their low income levels make private health care prohibitive. Migrant farmworkers tend not to apply for benefits until they are already experiencing a need for health care services. The government has established migrant health care clinics, but there are so few of them in relation to the numbers of migrant farmworkers that they serve less than fifteen percent of their targeted population.[1] Also, migrant laborers who are employed may be ineligible for Medicaid benefits by virtue of their seasonally fluctuating employment.[2]

Migrant workers need and, in most cases, qualify for the benefits that Medicaid would afford, but their greatest obstacle to obtaining them is completing the application process. If a farmworker does manage to navigate the system and obtain Medicaid benefits, he or she must reapply for them when moving into another state. If the worker cannot be located when it is time to re-certify eligibility for benefits, the benefits lapse.[2]

The law does allow states to reciprocate on Medicaid benefit eligibility, but the administration of the system is not uniform among states. When one state honors another state's Medicaid eligibility for a recipient, the paperwork tangle involved in billing for the services may cost more than the value of the medical services rendered. If the patient must be contacted in order to complete paperwork and that patient is a migrant farm laborer, it may not be possible to locate him. These circumstances do not encourage states to make an effort to accommodate the need of migrant farmworkers to be enrolled in the Medicaid system.[1]

The current system for the distribution of health benefits is not generally accessible to migrant farmworkers, although they are among the most needy members of our population. Migrant farmworkers face frustrations when they try to access the system, and states face frustrations when they attempt to cooperate to serve the migrant population.[1] Meanwhile, farmworkers suffer from a host of preventable and treatable diseases which Medicaid would cover, but for which they are unable to obtain treatment.[2] A nationally administered program to provide health care to migrant farmworkers would bypass the problems the individually administered state programs are currently generating.

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Health Professions

It is no exaggeration to say that the health status of migrant farmworkers is in a state of crisis.[1] Health care facilities with bilingual, bicultural staffs have implemented successful inter-disciplinary programs to cover the wide range of health and health-related social service needs of migrant farmworkers.[2] However, with 539 federally-funded migrant health clinics nationwide, there are still too few of these facilities with too few qualified practitioners to staff them effectively to serve a target population estimated to number up to five million.[3,4]

That the approach to delivery migrant health care services should be inter-disciplinary and creative is demonstrated by the broad range of problems from which migrant farmworkers suffer. They need services for physical illness, mental health disorders, and dental care. There is also a demonstrated need for preventive services such as nutritional counseling, family planning information, and basic education about health issues, hygiene, and well child care.[3] Farmworkers are frequently unaware of programs that exist to benefit them, and need to be linked with the appropriate social service agencies that provide aid. Workers face many obstacles to gaining access to service facilities, chiefly lack of time, money, and transportation and linguistic and cultural disparity with clinic staff.[2]

Programs that have successfully overcome these problems have done so with unconventional methods, significant outreach components to their programs, and a team approach to solving problems.[2] Examples of these programs include the Salud Clinic in Washington State,[5] Tri-County Community Health Center in North Carolina,[6] and the Niagara County Migrant Health Clinic in New York State.[7] All of these clinics employ bilingual and bicultural staff. They engage in significant outreach programs aimed at the migrant farmworker community, and enable that community access them. All of these clinics see clients outside of traditional business hours. Without this consideration, many migrant farmworkers would not be able to keep an appointment. Transportation is provided from the labor camps to the clinics, and also to referral appointments. The clinics serve as social service clearinghouses, coordinating services with appropriate social service agencies and frequently helping clients to translate and fill out forms.[5,6,7]

Evening clinics, translation services, transportation of clients, and social service coordination are not part of the traditional medical milieu, but they are essential services for the migrant farmworker community.[7] Successful programs require dedicated, competent staff from a broad range of health professions, preferable with bilingual ability and bicultural backgrounds. These individuals must be willing to coordinate their efforts and go beyond the boundaries of traditional health care services in order to care for their clients. Health professionals serving the migrant farmworker population have greater demands placed upon them than practitioners in traditional medical settings.[2]

Unfortunately, the typical migrant health center is unable to pay wages that are competitive with standard health care facilities in order to attract and keep staff.[8] Migrant health clinics were dealt a blow in the recruitment of physicians by the downsizing of the National Health Service Corps (NHSC). In 1987, 50 percent of the physicians in migrant health centers were serving out NHSC terms of two, three, or four years. With the expiration of those terms NHSC physicians had no obligation to remain at the clinics.[3] (It should be noted that the revitalization of the NHSC scholarship program currently underway will have an enormous positive impact on recruitment of migrant health providers. The National Advisory Council on Migrant Health wholeheartedly supports efforts toward this revitalization.) The average longevity of all medical staff at migrant health centers is between three and four years.[3,8] Migrant health centers also face another disadvantage because their Public Health Service Act section 329/330 grant support prohibits them from using grant money for student loan assumption, which is an attractive recruitment incentive.[3] To be effective migrant health clinics make unusual demands of their staffs, but they are financially crippled in their ability to recruit and retain staff.

One affordable and effective means of staff recruitment is participation in preceptorship programs, which place medical and other health professional students in clinics where they practice under supervision. These programs provide staffing power for migrant health clinics now, and promote migrant health centers as an attractive career option to participants later. The mutually beneficial nature of this option makes it one that should be aggressively promoted and pursued. Participation in these programs has resulted in better staff retention in the clinics, and enthusiasm on the part of the students for primary care and for entering community health practice.[3,9,10] Most of the existing programs are for physicians in training, but small programs to place physician assistants are also being developed.[11]

The unique demands of migrant health service reveal a need for bilingual and bicultural staff.[2] The migrant health centers also require a broad of staff, including nurses, nurse practitioners, nutritionists, mental health counselors, dentists, and social workers in addition to physicians.[3] Since the clinics are unable to compete with mainstream salaries, they need to be able to offer other incentives for recruitment, and they need to be able to offer those incentives to all types of providers, not just physicians.[3,9] One way to do this would be to allow migrant health clinics to assume student loans for staff members, and to allow them do to this for all health professions rather than for physicians only.[3] Also, the success of programs like the lay health advisor program indicates that the migrant community itself is a good source of capable, bilingual, bicultural, motivated personnel for training and subsequent employment in the field of migrant health.[6] Involvement of migrant students early in their education, before the dropout rate reduces their numbers drastically, could be an effective method to tap this resource, especially if loans, grants, and/or other incentives were developed for students who finished high school and pursued careers in the health professions. Since many students leave school to work, mentoring programs which paid a stipend for summer jobs in health centers would provide a means for students to stay in school.

Migrant farmworkers desperately need access to health care, and migrant health clinics need qualified, motivated staff in order to deliver health care services.[3] Lacking parity of wages with mainstream clinics, incentive programs must be implemented in order to inspire qualified health professionals to seek employment in migrant health care.[9] Recruitment to primary care service in under-served areas is most successful among health professionals who either come from under-served areas themselves, including minorities, or whose training included some exposure to primary care settings for under-served populations.[12,13]

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Family Issues

The harsh realities of life in the migrant stream include poverty, hard manual labor, unsanitary living conditions,[1] lack of medical insurance or access to care facilities,[2] high rates of illness, early death, economic uncertainty, and personal humiliation.[3,4] The same issues which affect migrant farmworkers as individuals impact them as families as well. According to the Department of Labor, the majority of seasonal agricultural workers are married and/or have children. Two in five of these workers live away from their families while doing farm work.[5] For single male workers who must leave their families behind as they migrate in search of work, social isolation and lack of recreational outlets takes it toll. When asked how he felt about being alone, one worker responded simply, "It is very ugly."[6] Many other migrant farmworkers travel as family units, whether they do so independently in extended family groups or under the control of a crew leader.[1] Women labor all day in the fields and bear the full responsibility for domestic labor when the official work day is over.[7] The results of living under such conditions are poor physical health, strained personal and family relationships,[3] increased incidence of child abuse, and an even greater incidence of unintentional child neglect.[1,8,9] In all senses, the well-being of migrant farmworker families is jeopardized by the conditions of their existence.

The general toll their lifestyle takes on the health of migrant farm laborers is well documented. The incidence of pathological conditions may vary by over 175 percent from one source to another. What is agreed on, however, is that migrant farmworkers suffer higher rates of tuberculosis, intestinal parasitic infection, skin diseases, influenza, pneumonia, gastrointestinal diseases, and skin diseases than the national average.[1,4,10] They are also at high risk for accidents and pesticide exposure.[3,10] Their irregular income leaves them prey to malnutrition.[11] Their mobility makes it difficult for them to access health care for chronic complaints or any condition which requires continuous care. Pregnant women often do not receive adequate prenatal care, and children are not usually taken for medical care unless they are displaying symptoms.[12] The life expectancy of a migrant laborer is 49 years, compared to the national average of 73 years.[1] The national infant mortality rate is 14 out of 1,000, while a 1989 study found the infant mortality rate among California migrant farmworkers is 30 out of 1,000 and the mortality rate for migrant farmworker children up to the age of five is 46 out of 1,000.[13] Examination of children on one study revealed that a large number had conditions requiring treatment which were asymptomatic.[14] Another study revealed that migrant farmworker children were not achieving the average height for their ages, were vitamin-deficient, and showed many other symptoms of malnutrition even though they had the proper proportion of subcutaneous fat for their size.[11]

Migrant laborers often are living by survival economics, and are geographically isolated from treatment centers. Money, time off required from work, and lack of transportation, combined with linguistic and cultural disparity are the most effective barriers to health treatment which migrant workers face.[12] Most migrant farmworkers have only a fifth- or sixth-grade education,[12] and many do not speak English as their first language.[5,15] These factors make it difficult for the migrant farmworker to recognize and be able to communicate the details of health problems to caregivers when they manage to reach a health care facility.[4] As stated in a 1991 report on farmworker health status, "Whatever the reason for not visiting health clinics, the outcomes are clear—multiple morbidities representing a population with poor health status that may need significantly greater care and more treatment due to the delay in receiving initial care."[10]

A study conducted by Public Voice in 1989 found that 50 percent of the migrant farmworkers surveyed had diets that did not meet the Recommended Daily Allowance for vitamin A, iron, or calcium. Almost a third reported running out of food or not having enough food at some time during the last year. Twenty- to 25 percent suffered from intestinal parasites, with the highest infection rates being among children. Yet fewer then 25 percent participated in the Food Stamp program because of misconceptions which led them to believe they were ineligible.[16] Other studies found that migrant farmworkers bought the foods that they could afford to buy in the order of: meat, milk, sweets, fruits, and vegetables. If they could not afford to buy from all these groups, they cut them out of the food budget in reverse order. The children of these families were found to be vitamin-deficient and suffered from disorders induced by malnutrition.[11]

Women in the migrant farmworker population often receive little or not prenatal care during their pregnancies. Many pregnant farmworker women fall into high risk groups due to being younger than eighteen or older than 35. Lack of money, lack of transportation, and lack of child care are all cited as reasons for not seeking prenatal care, as well as not perceiving a need for it.[12,17] Most pregnancies are unplanned and many women do not use any form of birth control, although many of the women interviewed expressed a wish that they had not become pregnant. One study found that the incidence of miscarriage and infant mortality dropped among a group of pregnant women who had received birth control options. The inferences was that mothers with desired pregnancies were more motivated to seek health care for themselves and their infants than mothers with undesired pregnancies. The need for prenatal care in the migrant farmworker population is reflected in a high incidence of miscarriage, infant mortality, and complications of pregnancy, including vaginal and urinary tract infections, anemia, and sexually transmitted diseases.[17]

The social implications of the conditions under which migrant farmworkers live are as dire as the physical ones. One women who fled from domestic violence with her baby described the situation she ran from. She and her husband and infant had shared one-room quarters with five single men. Over time her husband became increasingly violent and unpredictable. He began to beat her and the baby, and she was unable to predict what would initiate a violent episode. She fled after one of the men living with them also began battering her. She attributed her husband's behavior to a reaction to being "pushed around so much," and speculated that "being treated like a slave is harder for men to accept."[4]

The circumstances of the migrant lifestyle—overcrowding, poverty, lack of sanitary living facilities or recreation, and lack of dignity—place great personal strain on individuals which can be reflected in their personal lives.[3] Some individuals and families working under the auspices of a crew leader have no personal control of their finances. If the crew leader is exploitative they often find themselves indebted and virtually indentured to the crew leader.[4] This lack of control over their lives increases the stress on individuals that the migrant lifestyle entails.[3]

A study conducted in New York State found that the risk of child abuse or neglect was six times higher among migrant farmworker families than the national average. Although there was incidence of intentional abuse, most of the 497 allegations listed entailed involuntary neglect, such as 175 allegations of inadequate guardianship; 67 of lack of supervision; 62 of lack of food, shelter, and clothing; 19 of educational neglect; 16 of lack of medical care; and 4 of alcohol or drug use by a child. The tendency toward abuse/neglect was found to be higher in single-parent families, and women were more likely than men to be the perpetrators.[8] A finding by the East Coast Head Start program that there was a higher-than-average incidence of abuse/neglect allegations among migrant farmworkers in the vicinity led to inception of an educational program geared to lower that number. Three years after implementation of the program the incidence of abuse/neglect allegations among the local migrant farmworker population fell by 56 percent, to a number under the national average.[9] The inference of research is that education, day care, and effective social service delivery are the answer to the problem of child abuse and neglect among migrant farmworker families and that, in most cases, families are providing the best care that their precarious economic existence allows.[1]

The center of the migrant farmworker family is the mother. Although men are usually perceived as the primary wage earners, as many as 70 percent of the women work in the fields with their husbands. Although she may share the field work, the women is traditionally considered solely responsible for home and child care as well. This is a staggering burden considering the heavy nature of farm labor. It is also staggering to realize that 63 percent of the migrant farmworker population is estimated to consist of children 16 years of age or younger who require care. The problem of child care is a serious one, and frequently mothers have no choice but to take their children to the fields with them or to leave them unattended.[7,18] A retired farmworker told the National Advisory Council on Migrant Health, "In my case I was always working all the time. Sometimes it gets really cold. We [didn't] have enough clothes or food. I didn't want to take my children to work, but I had to take them with me."[19]

That women are anxious to improve the hazardous conditions under which their families live is evidenced by the successes of such programs as the Camp Health Aide program in Michigan and the Salud Clinic Outreach program in Washington State.[20,21] In the Camp Health Aide program, female migrant farmworker volunteers were trained to disseminate health and social service information in the labor camps where they lived.[20] During educational sessions conducted by the Salud Clinic, eager women were taught basic concepts of hygiene to cut the spread of intestinal parasites and other diseases. The women explained that they were not unwilling to implement the concepts of good hygiene (in spite of the difficulty of doing so in labor camp housing conditions), but that the connection between hygiene and the spread of disease had never been demonstrated to them before.[21] Farmworker women have also been effective participants in movements to improve wage and working conditions in the migrant community.[7]

A farmworker commented, "I believe we have the right to live in a decent way. We are the labor force. It's like we are foreigners—I am a U.S. citizen. Farmworkers come here with hope but go home worse off than before."[22] Migrant farmworkers work long hours for low wages. They live and work under substandard conditions that frequently pose a hazard to their health and the health of their children. Poverty often causes them to lack proper food and needed health care. The strains in their lives sometimes result in domestic abuse. Their lack of education often leaves them in ignorance of what they can do to help themselves. Experience has shown that migrant farmworkers are willing to adopt measures that will improve the lives of their families, once the means of doing so are shown to them. Migrant farmworker families are a population at risk whose needs should be remembered in any programs geared to aid families.

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Research

The available information regarding migrant farmworkers in America generates as many questions as it does answers. Who are migrant farmworkers? How many of them are there? Where do they come from? What is the state of their health? What are their living conditions? These are questions to which the current literature offers conflicting and piecemeal answers. Current, comprehensive, nationwide studies of the migrant farmworker population are lacking.[1] Much of the research on migrant farmworkers is seriously out of date, having been done in the 60s and 70s.[2] It is generally acknowledged that census figures are not reliable indicators of the actual numbers of migrant farmworkers,[1] and the tabulation methods of other agencies that count migrant farmworkers result in widely varying totals.

Regional information reveals the migrant farmworker population to be at high risk for health problems and frequently to be in distress.[3] While studies at the local, state, and stream levels may be useful for planning in specific areas, these studies "... have limited applicability to the wider farmworker population. Yet not infrequently, the results of these studies are used to represent the farmworker population at large."[4] But migrant farmworkers are a mobile population with a shifting composition, and we lack the documentation to accurately assess the needs of the migrant farmworker population as a whole.[1] Because the health problems of migrant farmworkers are inter-related with the other details of their lives, health studies frequently provide background information on the group of farmworkers being observed. But these studies tend to be local or regional in nature, and thus are not representative of the total migrant population.[1] As of 1986, the only national reporting system to track health data among the migrant farmworker population was the Migrant Student Record Transfer System, which tracks the health and academic records of students. No program exists to track this information among the adult population.[1]

Many different government agencies have attempted to number the migrant farmworker population, including the Census Bureau, the Department of Labor, the Migrant Health Program, and the Department of Agriculture. The results of these studies place the migrant farmworker population anywhere between 159,000[5] and five million.[6] The huge discrepancy in these totals is due to the utilization of different counting methods and differing criteria on who is considered a migrant farmworker by the agency.[5] The census count of migrant farmworkers is considered unreliable because it is collected in April and categorizes an individual's employment according to the job they held most recently within the last two-week period. The census is conducted before most agricultural activities employing migrant farmworkers have gotten underway for the year. So, the job that a migrant worker will have held in the last two weeks before the census may not reflect his or her employment for a significant part of the year as a migrant farmworker.[1] Other agencies may count workers, but will not include their dependents who travel with them and are subjected to the same living conditions and health hazards as the workers. Different agencies also adopt varying standards in determining what constitutes migrant farm work. The fact that migrant farmworkers are a transient population increases the difficulty of counting them accurately.[5]

Also a factor in the comparison of statistics across agencies is the lack of a standard definition of terms. As Galarneau explains, "In the farmworker health context, this assumed migrant difference [from other populations] has also come to characterize seasonal farmworkers. Initially authorized to serve migrant farmworkers and their family members, [the federal Migrant Health Program's] 1970 reauthorization contained an expension of its service population to include seasonal farmworkers and their family members."[4] The Migrant Health Program's program data, therefore, includes data on the combined migrant and seasonal populations. Other programs may report data on migrant or seasonal workers only, or may have definitions of "migrant" and "seasonal" which differ significantly from the definition used by the Migrant Health Program. Finally, "Farmworkers are a diverse population... In the absence of adequate information, farmworker health care services planning, delivery, and evaluation is necessarily based on weak generalizations and assumptions about farmworker health care needs. Such generalizations provide little guidance in the prioritization of needs and in resource allocation. These generalizations and assumptions are often made in the language of difference which obscures farmworker diversity and gives us the impression of having greater knowledge about farmworker health than we actually have."[4]

The composition of the migrant farmworker population is also difficult to determine. The ethnic composition of this population fluctuates and is now predominantly Hispanic, but also includes Blacks, Native Americans, Creoles, Asians, and Whites. The same factors which make it difficult to count migrant farmworkers also make it difficult to precisely categorize them ethnically or to accurately determine their downstream point of origin. But all of these factors can influence an individual's health status and ability to access the health care system.[1] For example, if a clinic can be reasonably sure that there will be no Creole speakers in their client population, there is no need to allocate funds to recruit Creole-speaking staff to that particular clinic. Conversely, if that same clinic incorrectly anticipates having no Creole clients and then gets a significant number of them, the clinic will not be prepared to effectively deliver health care services to them. A clinic must know who its clients will be and have some background knowledge about their problems to be able to effectively allocate its resources.[1]

Statistics on the incidence of disease in the migrant farmworker population reflect vast discrepancies. The Interstate Migrant Education Task Force stated in a 1979 publication that the death rate among migrant farmworkers from influenza and pneumonia was twenty percent higher than that of the average population, and that the death rate from tuberculosis was 25 times higher.[3] An article about migrant farmworkers published in 1978 stated that the death rate among farmworkers from influenza and pneumonia was 200 percent higher than the national average, while the death rate from tuberculosis was 250 percent higher.[7] Both of these publications refer to "migrant farmworkers." We do not know the source of the information in either publication; we do not know if these figures were misquoted by one party or the other, or if in different parts of the country both sets of figures might be correct. The introduction to the Interstate Migrant Education Task Force publication quotes the President's Commission on Mental Health that, "... much of the data frequently quoted in reports on the health needs of migrant farmworkers is suspect, and there is a lamentable tendency to pass along such data from one report to another without current documentation as to its validity..."[3]

Similar studies conducted by separate agencies in different migrant streams may produce different results. However, there is usually insufficient data on the populations being studied, or on the study methodology itself, to accurately determine what variables produce the conflicting results.[8] The data from local and regional studies is usually insufficient to justify extending the findings to the whole migrant farmworker population.[5] However, "We need not make another common assumption, that it is impossible to obtain reliable health data on farmworkers. A significant population-wide effort has not yet been made."[4]

Two separate studies on the health and mortality of migrant farmworker children were conducted in North Carolina and Wisconsin.[9,10] The North Carolina study found an infant mortality rate among migrant farmworker children of 30 deaths out of 1,000.[9] The Wisconsin study discovered an infant mortality rate of 29 out of 1,000, but also revealed that 45 out of 1,000 migrant farmworker children die by the age of two, and 46 out of 1,000 die by the age of five.[10] The national infant mortality rate was cited by both studies as 14 out of 1,000. The North Carolina study does not track the infant mortality rate of migrant farmworker children past infancy, so we do not know how children in North Carolina fare after infancy compared to the migrant farmworker children in Wisconsin. Neither of these studies indicates what the conditions actually are for migrant farmworker children across the nation.

The Wisconsin study cited difficulties in the assessment of mortality and health statistics among migrant farmworkers. Vital registrations such as birth certificates did not list the occupation or ethnicity of parents, so the information could not be compiled from registrations. The demographic data from the National Center for Health Statistics also failed to identify migrant farmworkers, and so could not be used for migrant studies.[10] Other sources cite problems in ascertaining death rates among the migrant farmworker population since no states list migrant status on death certificates.[5] The difficulty in obtaining migrant statistics from registrations makes it necessary to obtain them through surveys.[10] This method of data collection is complicated by the fact that many migrant farmworkers are fearful of dealing with officials.[1] These factors make it difficult to scientifically determine whether migrant farmworkers suffer from the same health problems as other impoverished populations or if there are migrant-specific ailments brought about by their working and living conditions.[5]

A 1990 analysis of data collected from migrant health centers in the midwestern migratory stream by the Migrant Clinicians Network provides the broadest picture to date of farmworker health status. The study clearly indicates that the migrant farmworker population is at greater risk and suffers more problems than the general population in the U.S. The study's author notes, "Factors such as poverty, malnutrition, infectious and parasitic diseases, poor education, a young population, and poor housing equate to a highly vulnerable population in need of resources... The need for developing a health policy and research agenda for migrant farmworkers in this decade is evident."[11] A review of literature published between 1966 and 1989 pertaining to the health of migrant farmworkers was conducted by George S. Rust, MD. He determined that the health status of migrant farmworkers has not been well measured. According to Dr. Rust's assessment, questions regarding migrant farmworker health remain unanswered on the following issues: population characteristics, mortality and survival data, perinatal outcome data, chronic disease data, occupational risk, nutritional factors, health-related behaviors, and accessibility to health care.[5]

Many regional and local studies have been conducted on migrant health issues, and on a local scale they are useful. But the limited scope of these studies makes them questionable as indicators of the health status of the migrant farmworker population as a whole. To date, most of the information comes from clinic-based research, which is time-consuming and costly and still leaves the major questions regarding the health status of migrant farmworkers nationwide unanswered. One thing which does become apparent from clinic-based research is that the primary care function of the clinics is desperately needed by their client populations. Clinics need their limited resources for primary care, and should not have to make their funding do double duty for both treatment and research.[1] One migrant health project representative stated, "There is tremendous value if we can really document how the health needs are greater for migrant farmworkers... There is also tremendous potential for generating more funding if we can show how we're having an impact on the health of these people... It takes funding to do that. [But] then we get into the bind that if we've got inadequate funding, how do we support the research agenda without sacrificing patient care?"[12]

Accurate information on the migrant farmworker population is required in order to efficiently allocate the resources available to serve their health care needs. This information is also necessary to determine exactly what those needs are at present and to anticipate future needs. Currently, our information on the migrant farmworker population is fragmented, conflicting, and frequently out of date. Research should be both population and practice based in nature, and should be conducted with dollars which are not re-directed from service delivery appropriations.

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Accessing the Migrant Health Program

A GUIDE FOR HEALTH CARE AND SOCIAL SERVICE PROVIDERS

More than 4 million migrant and seasonal farmworkers, who plant and harvest America's produce, struggle under the weight of substandard living and working conditions. The demands of constant relocation, cultural and language barriers, and geographic isolation make it difficult for traditional health care systems to reach this working population of more than 4 million.

The Health Resources and Services Administration's **Migrant Health Program** provides health care to workers and their families at more than 100 Migrant Health Centers across the country and in Puerto Rico. The program has developed partnerships with public and private agencies serving these groups, and offers creative opportunities for health professionals to make a positive and needed contribution to the health of this underserved population.

WHO WE SERVE

- A *migrant* farmworker is one whose principal employment is in agriculture on a seasonal basis and moves from job to job. A *seasonal* farmworker is one whose principal employment also is in agriculture on a seasonal basis but does not change his or her residence to move from job to job.
- Migrant and seasonal farmworkers live and work in substandard conditions including low wages, geographic isolation, lack of sanitary facilities, exposure to toxic chemicals, extremes of weather, long working hours and inadequate housing.
- The farmworker force, currently estimated at 4 million, fluctuates in size during each year in response to job availability and weather conditions.
- Migrant and seasonal farmworkers served by the program generally fall into the following groups:

Ethnic Origin	Percent	Age Group	Percent
Hispanic	50%	≤14	39%
Black	35%	15-64	55%
White, Asian	15%	≥65	6%

- **Migrant farmworkers generally travel and work along three migratory "streams":**

The eastern stream originates in Florida, Puerto Rico, the Virgin Islands and other Caribbean islands. Workers move north along the Atlantic seaboard.

The midwest stream originates in Texas. Workers generally move to the midwestern states but may join the eastern or western streams to find work.

The western stream originates in southern California and workers move north to Idaho, Oregon, Washington and other agricultural areas in the northeast.

MIGRANT WORKER HEALTH STATUS

Basic health problems of migrant and seasonal farmworkers include:

- A higher rate of toxic chemical exposure than any other occupation
- A higher rate of heat stress and dehydration than other occupations
- Parasitic infections 20 times greater than the general population
- Death rates from influenza and pneumonia 20% and 200% higher respectively than the national average
- Dental disease continues to rank in the top 10 migrant health center diagnoses
- Dental disease is the number one condition among males ages 10-14

PROGRAM OPERATIONS

- Annual appropriations have averaged between $45 million to more than $50 million
- More than 100 health centers serve nearly 600,000 workers and family members at 400 clinic sites in 40 states and Puerto Rico
- More than 70 health centers provide dental services to 70,000 workers and their families
- Comprehensive primary health care is provided through the Migrant Health Program including:
    - perinatal and family planning,
    - diagnostic lab & x-ray procedures,
    - emergency medical services,
    - pharmaceutical services,
    - preventive dental services,
    - transportation assistance,
    - social service assistance,
    - outreach activities, and
    - health education.

NATIONAL ADVISORY COUNCIL ON MIGRANT HEALTH

- The National Advisory Council on Migrant Health is a legislatively mandated council which makes recommendations to the Secretary of Health and Human Services on matters affecting the delivery of health care services to migrant and seasonal farmworkers. Phone 301-443-1153.

MIGRANT HEALTH PROGRAM RESOURCES

- **National Migrant Resource Program,** Austin, Texas
  National resource center of materials related to migrant and seasonal farmworkers' issues. The program provides technical and program assistance to a national network of migrant health centers. Phone 1-800-531-5120

- **National Association of Community Health Centers,** Washington, D.C.
  Provides technical and program assistance and coordination to migrant health centers. Phone 202-659-8008

- **National Rural Health Association,** Kansas City, Missouri
  Provides technical and program assistance on rural health issues and administers the Physician Assistant Fellowship program in migrant health centers. Phone 8 16-756-3140

- **Migrant Clinicians Network,** Austin, Texas
  Supports a national network of health professionals in migrant health centers; develops clinical protocols and recruitment of health professionals in migrant health centers, coordinates practice based research, clinical advocacy, and leadership development. Phone 1-800-531-5120

- **Rural Community Assistance Program,** Leesburg, Virginia
  Provides Technical assistance in environmental health issues. Phone 703-771-8636

- **National Migrant Worker Council,** Detroit, Michigan
  Recruits professional seasonal health and allied health professionals to provide a variety of health and social services with migrant and community health centers along the eastern stream. Recruits and trains migrant women as camp health aides. Provides technical assistance on implementing vision programs in migrant health centers through the Association of Schools and Colleges of Optometry (ASCO). Phone 219-232-6573

- **Farmworker Justice Fund,** Washington, D.C.
  Provides reports and studies concerning occupational health hazards of migrant and seasonal farmworkers. Involved in litagation and advocacy on farmworker issues. Phone 202-462-8192

- Academic institutions & health professional associations development of various studies, health promotion programs and advocacy related to migrant and seasonal farmworkers

For more information, contact your US Public Health Service Regional Office or the Bureau of Health Care Delivery and Assistance, Migrant Health Program, 5600 Fishers Lane, Room 7A- 55, Rockville, Maryland 20857

MCN monograph series

MIGRANT CLINICIANS NETWORK

Migrant Health Status:

Profile of a Population With Complex Health Problems

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Executive Summary

The results from this study are significant, shocking, and convincing. The findings are based upon a sample of migrant and seasonal farmworkers living and working in the U.S., yet their demographic patterns, socioeconomic conditions, life-style characteristics, and disease categories reflect agrarian third world conditions rather than those of the most powerful and affluent nation in the world. Factors such as poverty, malnutrition, infectious and parasitic diseases, poor education, a young population, and poor housing equate to a highly vulnerable population in need of resources. Clearly, the migrant population is at greater risk and suffers more problems than the general population of the U.S. The results of this research demonstrate the need for more services, care, and treatment. The need for developing a health policy and research agenda for migrant farmworkers in this decade is evident.

Since the Migrant Health Act was passed in 1962, migrant health centers have struggled to serve the migrant and seasonal farmworkers and their families who make up the backbone of this country's agricultural work force. The on-going battle to improve the health status of farmworkers has not been easy, and is being lost. Current estimates show that migrant clinics are able to serve less than twenty percent of this nation's migrant farmworkers.

Health centers have been handicapped in their efforts to focus attention on this gap in service by the lack of reliable data on the health status of the farmworkers they serve. While some data is available for individual clinics or regions, this information does not give a clear national picture of the health problems experienced by these workers and their families.

Now, thanks to the Migrant Clinicians Network in partnership with the National Migrant Resource Program, the first national study of morbidity in the farmworker population gives us solid evidence that their health status is far below that of the general population. In addition, the findings indicate that migrant farmworkers experience *different* problems from those of other populations.

With technical support from the National Migrant Resource Program, the Migrant Clinicians Network sampled utilization data for this study from four migrant health centers in the states of Texas (a homebase area for migrant and seasonal farmworkers), Michigan, and Indiana (non-homebase areas). The program health analysis examined data from a total of 6,969 medical encounters during the study period. In addition, community health data was collected on two control group counties in addition to the study area in order to test the hypothesis that Hispanic migrant and seasonal farmworker populations differ from the Hispanic population *per se*.

This study focused on farmworkers in the midwestern migratory stream. Although the data was not cross-tabulated to track individual workers, data was collected for workers both in their homebase area in Texas and in the upstream areas where they work. Access to health care services tends to be more limited in migrant homebase areas than in non-homebase areas due to the concentration in homebase areas of other potential clinic users who compete with farmworkers for access to services. Because the data indicate that the differences between farmworker health status and that of the general U.S. population is more pronounced for workers in their home areas than for those working upstream, this monograph concentrates scrutiny on data from the homebase study area counties. However, the final study report presents data from all of the study area counties, including both homebase and non-homebase areas.

Comparison with General Population

- Migrant farmworkers have different and more complex health problems from those of the general population.
- Migrant farmworkers suffer more frequently from infectious diseases than the general population.
- Farmworkers have more clinic visits for diabetes, medical supervision of infants and children, otitis media, pregnancy, hypertension, and contact dermatitis and eczema.
- Clinic visits for general medical exams account for only 1.4 percent of all visits to migrant health clinics, 39 percent below the U.S. average.
- Demographic analysis of the study area counties indicates that the farmworker population has more young people and fewer older people than the general U.S. population.

Multiple Health Problems

- Multiple and complex health problems exist among over 40 percent of all farmworkers who visit migrant health clinics.
- Patients under one year and over 64 years old had the highest occurrence of multiple health problems.
- The diagnostic category "Factors Influencing Health," which covers preventive services, produced the most clinic visits for all migrant workers. This suggests that migrant health clinics are actively providing health promotion and disease prevention services. In addition, this may indicate that coordination of complementary service resources such as WIC may significantly increase access to health care.

Community Health Status

- As many as 58 percent of all households in migrant "homebase" areas are below nationally defined poverty levels, compared with only 1.4 percent nationally.
- Homebase areas have a higher-than-average proportion of households with low median income, low median home value, and low percent of college graduates.
- The overall health of farmworkers in homebase areas is significantly worse than that of either the general U.S. population or farmworkers in non-homebase migrant areas.

Health Status by Age

- Clinic visits for ages 1-4 are mostly for infectious and nutritional health problems. Health problems for ages 5-9 are also primarily infectious, but dental problems also appear for the first time in this group.
- Dental disease is the number one health problem for patients aged 10-14.
- Pregnancy is the most frequent presenting health condition for females aged 15-19; dental disease is number one for males.
- Females age 20-29 visit clinics primarily for pregnancy, diabetes, common cold, and reproductive problems. Males visit primarily for contact dermatitis and eczema, strep throat and scarlet fever, and dental problems.
- In the 30-44 age group, two of the top three problems for both males and females are diabetes and hypertension.
- Nearly half of all clinic visits for men and women in the 45-64 age group are for diabetes, hypertension, or arthropathies.
- Among the elderly, over 60 percent of clinic visits by males and 80 percent by females are for diabetes and hypertension.

Geography and Demography

- The non-homebase study counties have an overall higher median age than the country as a whole.
- The homebase counties have more children under 15 and fewer elderly over 65 than either the U.S. in general or non-homebase migrant areas.
- Per capita income in all study counties except one is below the U.S. average. Migrant homebase areas show a 1989 per capita income 50 percent less than the U.S. level of $13,218.
- Over 20 percent of the households in the homebase study area have incomes of under $7,500; households with incomes under $7,500 in non-homebase areas range from 7 percent to 14 percent.

Introduction

Our knowledge of the overall health status of the farmworkers who use migrant health clinic services is quite limited. Some health status information is available for individual clinics; however, such information does not give a national picture of the problems encountered by farmworkers. A number of studies to date have filled in pieces of the migrant health status puzzle.

Literature Review

There are approximately 4.2 million migrant and seasonal farmworkers in the United States. This is comparable in size to the population of Minnesota. But the health status of the residents of Minnesota is well documented and understood. On the other hand, we know very little about the health status of migrant and seasonal farmworkers. These workers represent a highly mobile group. Thus, in order to understand their health status we must rely on a variety of reporting systems which do not uniformly collect this information on migrant farmworkers. Much of what we do know of the health status of this population has been collected independently by individual clinics throughout the country, and has never been aggregated across migratory streams or across the farmworker population as a whole.

A review of the current literature yields a wide range of opinions regarding the health problems of migrant and seasonal farmworkers. These opinions were often elicited from health professionals who one or more areas of expertise and, in some cases, knowledge about a specific geographical area. In addition, the perception by migrant workers themselves that they suffer from non-specific ailments including backaches, headaches, colds, and "strong anger" is shared by many health professionals who serve them. Data from existing studies would support this contention. Further, the literature review found other important health problems which have been noted by health professionals. For example, added to the above list of concerns, the following were identified as significant health problems: anemia, high blood pressure, diabetes, accidents, exposure to pesticides, general dental problems, heart attack, infectious diseases.

A review of the literature made it possible to estimate the leading causes of farmworker death and the principle reasons given by farmworkers for visiting migrant health centers. In many instances these problems could also be categorized by age group. In comparing these random mortality and morbidity studies from the literature with the results of the actual clinical data as presented in this and other professional reports, the morbidity patterns are frequently similar.

Study Area

Four migrant health centers in three states were studied for this report. The four health centers are: Migrant and Rural Community Health Association (MARCHA) in Bangor, Michigan; Indiana Health Centers (IHC) in Indianapolis, Indiana; Hidalgo County Health Care Corporation (HCHCC) in Pharr, Texas; and Su Clínica Familiar (SCF) in Harlingen, Texas. Each center has unique social, economic, and demographic characteristics. In addition, two control group counties were selected to facilitate comparison to the study areas.

The centers to be sampled were selected by the Migrant Clinicians Network (MCN) and represent two "homebase" and two "non-homebase" sites in the Midwestern migratory stream. All migrant clinic utilization (encounter) data for the months of June through August 1986 for the Michigan centers, July through September 1986 for the Indiana center, and November 1986 through January 1987 for the Texas centers were collected. A total of 6,969 patient encounters were included in the final data analysis. With assistance from The MITRE Corporation, MCN performed an extensive data analysis to produce a set of tables illustrating Diagnostic Related Groups (DRGs) by site, age, and sex. These data were further evaluated by looking at the top 20 morbidities by life-cycle and site location (i.e., homebase vs. non-homebase). Additionally, co-morbidities were determined for each age group for all centers. The results were used to identify appropriate clinical indicators for evaluation.

This document presents information on migrant health status from several perspectives. First, the demographic characteristics of the study population are discussed. Second, data relevant to community-based health status (i.e., homebase vs. non-homebase population) are presented. Next are program health status findings based on comparisons of clinic-specific data with findings from the National Ambulatory Medical Care Survey. Fourth, co-morbidity patterns in migrant health clinics are examined. Finally, the development of clinical indicators is discussed.

Geography

The migrant and seasonal farmworker population is distributed across almost every state in the U.S. California has the most farmworkers, while Rhode Island has the least. The states of Michigan, Indiana, and Texas, which comprise the study area for this report, are estimated to have a combined farmworker population of about 575,000 workers, about 13.7 percent of all farmworkers in the country. These three states are in the Midwestern migratory stream, with Indiana and Michigan located "upstream" (non-homebase areas) and Texas "downstream" (a homebase area). The service areas of the four major migrant health centers used in this study encompass a total of eighteen counties.

The agricultural working season varies between the three study areas. Texas has a year-round growing season, while the season in Indiana and Michigan is approximately seven months. Over 50 percent of Hidalgo county's population is comprised of farmworkers; for Cameron and Willacy counties the percentages are 17.8 and 39.3, respectively. The analysis of much of the data in this report is predicated on the assumption that the Texas sites are homebase areas for migrant and seasonal farmworkers. Subsequent references in this report to "homebase" and "non-homebase" migrant populations refer to the Texas and Indiana/Michigan sites respectively.

Demography

Demographic data are almost always prerequisites for basic community health analysis, since demographic trends directly influence health and disease patterns. Accompanying any demographic trend is a public and health policy implication reflective of a healthy public policy. Thus, a basic analysis of demographic trends is critical to understanding the problems encountered by migrant and seasonal farm workers. Moreover, we know very little about the demographic characteristics of these workers.

This demographic analysis related to migrant and seasonal farmworkers was conducted from two perspectives: an ecological analysis of migrant homebase and non-homebase areas served by migrant health centers, and a program analysis of patient data from the four migrant health centers.

Population Characteristics

In the study area counties, the percentage of migrant and seasonal farmworkers as a percentage of total county population differs dramatically among counties, ranging from .23% in Grant County, Indiana to 51.7% in Hidalgo County, Texas. In fact, for all the Indiana and Michigan study area counties farmworkers make up less than 9.0%. In contrast, in the homebase study area (Texas) counties the percentages are high—ranging from 17.8% to 51.7%.

Furthermore, the Hispanic population in these study areas has similar distributional characteristics. Approximately 2% of the Michigan and Indiana population is Hispanic, whereas for Texas the corresponding number is 27.7%. County-specific data for these sites are similar to their respective states, except in the case of Texas. The study area counties in Texas have more than 90% Hispanic population. With the high proportion of migrant workers and the high percentage Hispanic population in the Texas study area counties, a contingency analysis indicates that the demographic characteristics described in this study may be considered as representative of the homebase Hispanic migrant and seasonal farmworker.

Age Distribution

The median age of the U.S. population in 1989 was 32.7 years. In contrast, the median ages for the homebase study counties were 28.1, 27.8, and 27.4 for Cameron, Hidalgo, and Willacy counties respectively. The median ages for the Indiana counties were on the average *above* that of the U.S., and the Michigan counties range from 0.2 years above to 2.1 years *below* the U.S. median.

The proportion of the population less than 15 years old and the proportion over 65 in a geographical area are significantly related to disease patterns. The percentage of population in the U.S. under age 15 is 21.7%. The homebase counties range from 8.8% to 9.4% above the U.S. proportion. On the other hand, non-homebase counties range from 1.4% below to only 2.9% above the U.S. The percentage of population over age 65 in the U.S. for 1989 was 12.5%. The non-homebase areas have greater percentages of older citizens while the homebase counties have a lower percentage than the U.S.

This demographic pattern of a high proportion of younger people and a low proportion of older people is typically associated with infectious disease cycles. Thus, not knowing the disease patterns of the homebase study area counties, we could expect nutritional problems, infectious diseases, and parasitic diseases to dominate and to be concentrated in the younger age groups. Additionally, since the proportion of elderly persons is less in the homebase counties than in the U.S. as a whole, we could expect less chronic disease. Specifically, the magnitude of representative diseases (such as heart disease, cancer, and diabetes) would be lower compared to other areas where the population is significantly older than the U.S., and certainly older than the migrant population. This clearly suggests that migrant farmworkers would be dominated by an infectious disease cycle typical of third world countries, with an emerging secondary chronic disease pattern typical of a population getting older and more urbanized. This paradox of many young/few old produces mostly infectious disease for the rural farmworker and chronic disease for the urban migrant worker. A transition is taking place.

The population distribution of patients who attended migrant health clinics for the three homebase study area counties is compared to the state and U.S. distributions. The program-specific data (obtained from farmworker clients who visited the migrant clinics) are contrasted with community-based data which were obtained for the entire population in an area where migrant centers are located. Thus, the first data set is program-specific information, whereas the second data set is community-based information. The pattern in the two data sets is very similar. However, the age distribution of patients who visit migrant clinics is quite different when compared to the U.S. age distribution. The age groups under age 15 make up 30% of the patient population in the migrant clinics, whereas the corresponding percentage in the U.S. is 20%. Further, the group over age 65 is under-represented in the clinic data compared to U.S. population data.

Population Growth

The population growth of an area is also a key variable in understanding the health and disease patterns of a population. Projected percent change in population 1989 to 1994 for the study area sites indicates that most of the Indiana counties will lose population by 1994, while the Michigan and Texas counties gain population. The growth rates for these two latter areas range from 0.3 percent to 11.8 percent. High growth rates in an area may be due to a high birth rate and/or a high immigration level. In addition, high birth rates reflect a wide-based population pyramid and are typical of a population in a high infectious disease cycle. The homebase areas in the current study fit this pattern.

Economic Characteristics

The relationship between population variables and economic characteristics can further add to an our understanding of the disease patterns for a community. In this study, the homebase areas were clearly economically disadvantaged when compared to the U.S. and the non-homebase migrant areas. The per capita income for the homebase migrant areas is one-half that of the U.S. and most of the non-homebase areas. For example, the U.S. per capita income in 1989 was $13,218, compared to only $6,087 for Willacy County, Texas. In the U.S. as a whole 11.9% of all households earned less than $7,500; this percentage is also typical of the non-homebase study area counties. On the other hand, the homebase counties have nearly twice as many households earning under $7,500 as the U.S. as a whole. Obviously, the homebase migrant areas are significantly below the U.S. economic standard. Low per capita incomes and high percentages of households earning less than $7,500 characterize the homebase migrant population in the study areas as an economically vulnerable population.

A demographic and economic profile emerges which characterizes homebase migrant farmworkers. The profile is typical of a society or culture in an infectious disease cycle. Further, the profile suggests that a secondary chronic disease pattern will emerge as additional demographic characteristics are examined. The overall profile may be characterized in the following manner:

- High proportion of migrant and seasonal farmworkers as a percent of total population.
- Extremely high percent Hispanic population.
- Low median age (younger population).
- Very high percent of population under age 15.
- Percent of population age 65 and over low but showing minor increases.
- Fast population growth expected.
- Very low per capita income.
- High percent households earning under $7,500.
- Low educational level.
- An economically disadvantaged population.

These characteristics define a profile of a population which is vulnerable and needs major improvement in the quality of life. The profile is quite typical of an infectious disease cycle. In the next section the community health status of migrant areas will be examined.

Community Health Status

This aspect of the analysis provides information about the health status of the population in the communities where migrant and seasonal farmworkers live. The results are aggregated to describe groups, and it cannot be inferred that any one individual within the group would have the combination of problems or characteristics identified for the entire group. An ecological analysis offers a description of the community and generates potential hypotheses as to the reasons for the problems identified.

Quality of Life

Disease patterns in a population are linked to quality of life. The homebase migrant study areas represent a quality-of-life profile of a population which faces difficult and complex problems. Each of the three counties (Cameron, Hidalgo, and Willacy) is dominated by household groups which are among the poorest rural areas in the country. For example, the percentage of households designated through cluster analysis as "Hard Scrabble" * is 58.14%, 28.5%, and 11.0% for Willacy, Hidalgo, and Cameron counties respectively. Based on a rank order of forty different neighborhood designations, Hard Scrabble ranks 39th—only public assistance neighborhoods rank lower.

In addition, the migrant homebase study areas are characterized by low median income, low median home value, low percent college graduates, and an overall low quality of life rating. Generally, their income is half to one-third that of the U.S. as a whole. For example, the median income for Hard Scrabble neighborhoods in Cameron county is $12,874, compared to the U.S. value of $24,269. Median home values for these counties compared to the general U.S. show the same pattern. The percent of college graduates falls well below the U.S. level. In Cameron county, for instance, only 6.5% of the population are college graduates, while the U.S. percentage is 16.2% (1989).

Major Diagnostic Groups

There are major differences between the homebase migrant areas and the non-homebase areas for the major disease categories. In Indiana (ten counties) only two disease categories out of a possible 230 are significantly above the U.S. index. Michigan (five counties) has two disease categories significantly different from the U.S. For instance, Van Buren, Ottawa, and Berrien counties (Michigan) are higher for "Newborn and Other Neonates with Conditions Originating in the Perinatal Period" by 8%, 4% and 2% when indexed to the U.S. average. For Kalamazoo county, Michigan, the other disease category ("Pregnancy, Childbirth, and the Puerperium") is 3% above the U.S. (Figure 1).

Figure 1 demonstrates some very basic differences in terms of which disease patterns dominate. The diseases which predominate in Willacy county (a homebase area) are typical of a young population, and thus reflect an infectious disease cycle. On the other hand, Jay county (a non-homebase area) is dominated by a disease pattern typical of an aging population and a chronic disease cycle. These differences are notable since throughout this analysis these patterns persist. Results of this nature allow planners and policy makers to develop appropriate pro-

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* *The term "Hard Scrabble" is an old phrase meaning to scratch a hard living from hard soil. Hard Scrabble neighborhoods represent our poorest rural areas, from Appalachia to the Ozarks, Mexican border country, and the Dakota Bad Lands. Hard Scrabble leads all other clusters in concentration of adults with less than eight years of education, and trails all other clusters in concentration of working women.*

The other dominant cluster groups identified in this study are defined as follows: 1) "Agri-Business" is geo-centered in the Great Plains and mountain states. These are, in good part, prosperous ranching, farming, timber, and mining areas. However, the picture is marred by rural poverty—from the Dakotas to Colorado—where weather-worn old men and a continuing youth exodus testify to hard living; 2) "Heavy Industry" is much like "Rank & File," nine rungs down on the socioeconomic scales and hard-hit by unemployment. It is chiefly concentrated in the older industrial markets of the northeastern U.S. quadrant and is very Catholic, with an above-average incidence of Hispanics. These neighborhoods have aged and deteriorated rapidly during the past decade. There are fewer children and many broken homes; 3) "Hispanic Mix" describes the nation's Hispanic barrios and is therefore, chiefly concentrated in the major markets of the Mid-Atlantic and West. These neighborhoods feature dense, row-house areas containing large families with small children, many headed by single parents. They rank second in percent foreign-born and first in short-term immigrant residents, and are essentially bilingual neighborhoods.

Neighborhood clusters are the end result of complex statistical techniques which employ U.S. census data plus many additional types of consumer data to uncover the latent structure of these natural social groups. This method enables us to define and locate all similar communities wherever they may occur in the U.S., and to assign them to homogeneous clusters. These clusters exhibit vivid, predictable behavior patterns toward products, services, media, and promotions. Moreover, because all these data can be correlated by cluster and then projected back into local market configurations, the marketer can target the neighborhood level and thereby increase leverage, efficiency, or both. Every neighborhood in the nation has been computer-assigned to one of forty clusters at the county, zip code, tract, and block group levels. These "prizm" clusters are produced and copyrighted by Claritas Corporation.

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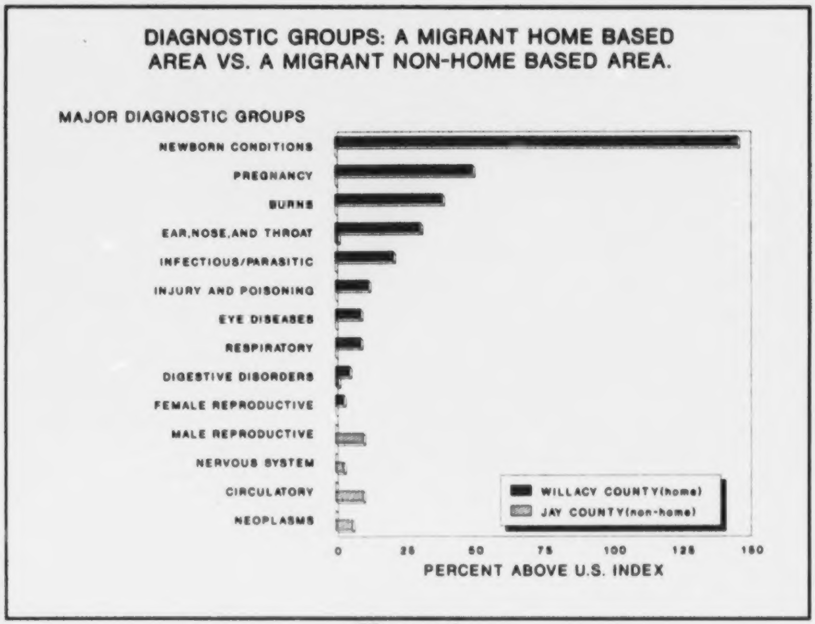


Figure 1

grams which will improve the health status of the migrant population.

The migrant homebase study areas present a disease profile which is significantly different from the non-homebase areas and the United States as a whole. For the state of Texas (the location of the three homebase study area counties) there are four disease categories above the U.S. average. They are 1) "Newborn and Other Neonates with Conditions;" 2) "Pregnancy, Childbirth and Puerperium;" 3) "Burns;" and 4) "Disorders and Diseases of the Ear, Nose and Throat." In contrast to the non-homebase study areas, the homebase areas have significantly more problems and problems of greater magnitude.

All three study area counties have the following problems which are significantly above the U.S.: 1) "Newborn and Other Neonates with Conditions;" 2) "Pregnancy, Childbirth and Puerperium;" and 3) "Disorders and Diseases of the Ear, Nose and Throat." Additionally, "Burns;" "Infectious and Parasitic Diseases;" and "Disorders and Diseases of the Respiratory System" are well above the U.S. average for one or more of the study area counties.

To determine if the patterns displayed in the homebase areas are representative of the migrant population specifically or just of the Hispanic south Texas population, a control group of counties was identified. The purpose of identifying the control group was to compare the health status of the study area to a control group area. The control group concept was introduced to test the hypothesis that the Hispanic migrant and seasonal farmworker population differs from the Hispanic population *per se*. The control group was matched on several social and economic characteristics, except that the control group had no migrant population. The control group counties were selected by matching as closely as possible the following criteria: 1) >50% Hispanic, 2) >20% of households with income <$7,500, 3) >25% of population <15 years of age, 4) median age range +/ 4 years, and 5) similar socioeconomic status. Using the National Planning Data Corporation on-line data system, we selected two counties (San Miguel county, New Mexico and Culberson county, Texas) which met the criteria but which did not have a migrant farmworker population.

A comparison of two study area counties (Cameron and Willacy) to the two control group counties for the most common diagnostic disease categories reveals major differences. None of the disease categories for the control group counties are significantly above U.S. rates. On the other hand, five disease categories for Cameron county and three categories for Willacy county are significantly above the U.S. average (Figure 2). Thus, it can be stated that the identified problems are specific to the migrant population.

Community Health Summary

This study focused on farmworkers in the midwestern migratory stream. Although the data was not cross-tabulated to track individual workers, data was collected for workers both in their homebase area in Texas and in the upstream areas where they work. Access to health care services tends to be more limited in migrant homebase areas than in non-homebase areas due to the concentration in homebase areas of other potential clinic users who compete with farmworkers for access to services. Because the data indicate that the differences between farmworker health status and that of the general U.S. population is more pronounced for workers in their home areas than for those working upstream, this monograph concentrates scrutiny on data from the homebase study area counties. However, the final study report presents data from all of the study area counties, including both homebase and non-homebase areas.

The quality of life in these homebase areas is characterized by low socioeconomic status—some of the poorest rural areas in the nation, low median income, low median home value, and low percent college graduates. The disease problems in these areas are mostly infectious and specific to the migrant population. The major diseases suffered by the migrant population are conditions in newborns and neonates; infectious and parasitic diseases; burns; disorders of the ear, nose and throat; and injury and poisoning. These problems are typical of the infectious disease cycle. In addition, the exhibited demographic pattern and the poor socioeconomic status also underscore the fact that the migrant population is victimized by an infectious disease cycle. However, as noted earlier, a chronic disease cycle is also emerging. Chronic disease problems are also prevalent in the migrant population. Subsequent analysis of the migrant-specific program data will reveal the emergence of this chronic disease cycle.

Program Health Status

For the purpose of this study, community health status analysis of migrant and seasonal farmworkers is specific to migrant homebase communities. In contrast, program health status analysis is specific to the migrant workers who visited the surveyed migrant health centers during the study period.

The program data was compiled from 6,969 patient counters, and is specific by diagnosis, age and sex for the four surveyed migrant health centers. The twenty most common principal diagnoses are detailed for nine age groups by sex. All diagnoses were coded according to ICD-9-CM categories.

One objective of the program health analysis was to identify potential clinical indicators which would be appropriate for migrant farmworkers in each age group. However, the identification of clinical indicators for some age groups is more difficult since accumulating a majority of clinic visits will require the inclusion of more than the top ten most common reasons for visiting migrant health centers. A large percentages of visits which are categorized as "Other" would indicate that significant variation in health problems is encountered for that age group.

All Ages

Table 1 presents data on all age groups for males and females. Although this data may have limited use for the development of clinical indicators, it does demonstrate the overall major reasons for visiting migrant health centers. The top three male conditions are: 1) health supervision of infant/child, 2) otitis media, and 3) diabetes. The top three female conditions are: 1) diabetes, 2) pregnancy, and 3) health supervision of infant/child. Perusing the list of the top twenty problems gives no surprises. Typically, the principal common diagnoses are dominated by infectious and chronic disease problems. Additionally, environmental conditions are represented by such disorders as dermatitis and respiratory problems.

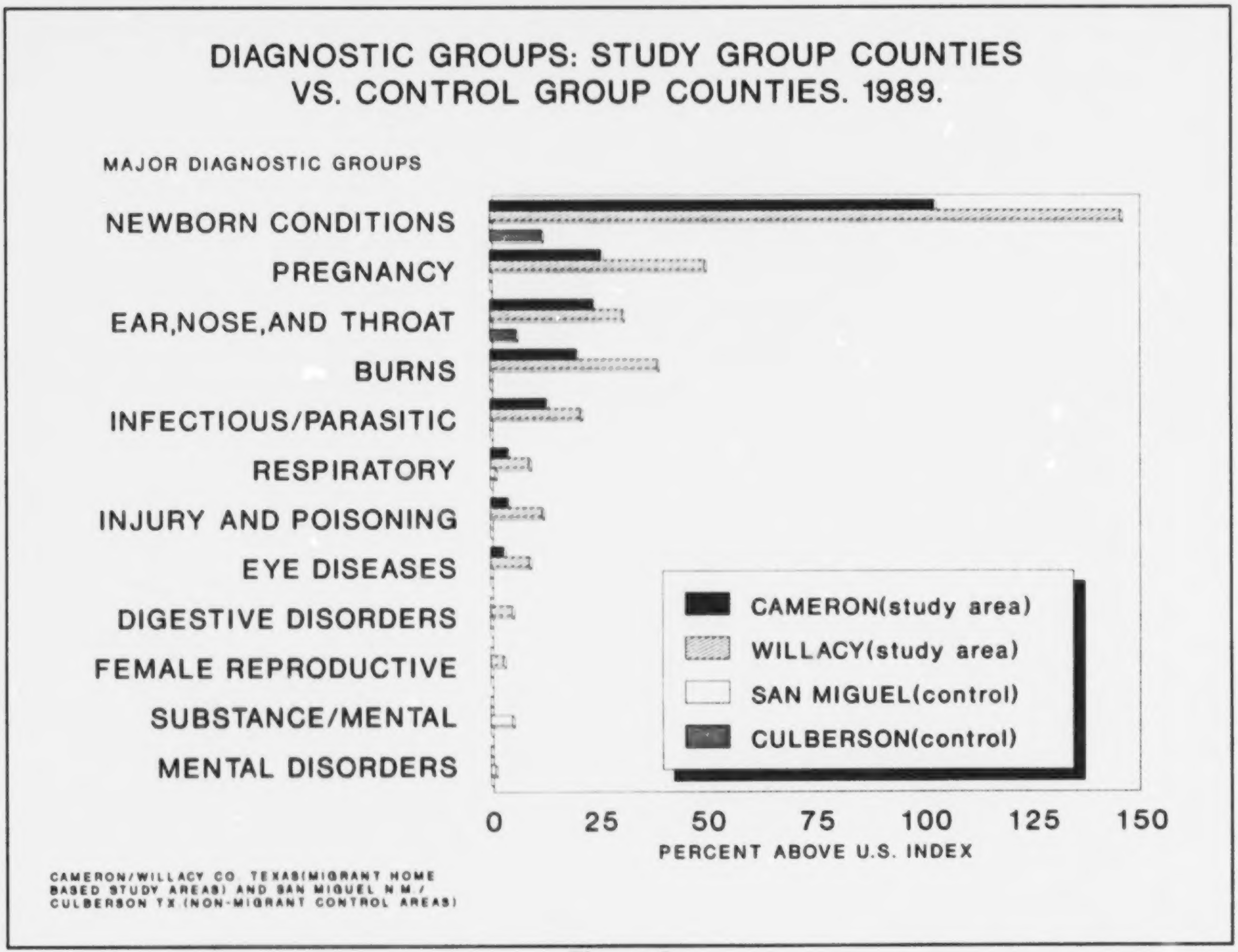


Figure 2

Most Common Principal Diagnoses in Migrant Health Clinics,[1]
Number and Percent, By Sex, All Ages, 1986-87

Rank[2]	Diagnosis[3]	Code	Male		Female		Total	
			#	%	#	%	#	%
1	Diabetes Mellitus	250.	172	6.6	408	9.3	580	8.3
2	Health Supervision of Infant or Child	V20.	227	8.7	245	5.6	472	6.7
3	Otitis Media, Suppurative and Unspecified	382.	214	8.2	200	4.6	414	5.9
4	Normal Pregnancy	V22.	0	0.0	396	9.0	396	5.6
5	Upper Respiratory Infection, Acute	465.	151	5.8	164	3.8	315	4.5
6	Essential Hypertension	401.	121	4.7	177	4.1	298	4.2
7	Consultation Without Complaint or Sickness	V65.	69	2.7	126	2.9	195	2.8
8	Hard Tissues of Teeth Disease	521.	78	3.0	106	2.4	184	2.6
9	Contact Dermatitis and Other Eczema	692.	77	2.9	80	1.8	157	2.2
10	Common Cold	460.	0	0.0	142	3.3	147	2.1
11	Conjunctivitis, Acute	372.	61	2.4	81	1.9	142	2.0
12	Strep Throat and Scarlet Fever	034.	61	2.4	64	1.5	125	1.7
13	Inflammatory Disease of Cervix, Vagina, or Vulva	616.	0	0.0	117	2.6	117	1.6
14	Anemia, Unspecified	285.	46	1.8	69	1.5	115	1.6
15	Viral Infection, Unspecified Site	079.	43	1.7	66	1.5	109	1.5
16	Pharyngitis, Acute	462.	47	2.8	59	1.3	106	1.5
17	Urethra and Urinary Tract Disease	599.	0	0.0	84	1.9	105	1.5
18	Gastroenteritis and Colitis, Non-Infectious	558.	48	1.9	0	0.0	99	1.4
19	General Medical Examination	V70.	40	1.5	59	1.3	99	1.4
20	External Ear Disorders	380.	45	1.7	0	0.0	92	1.3
21	Other		956	36.8	1622	37.0	2702	38.7
	TOTAL		2596	100.0	4373	100.0	6969	100.0

1 The migrant health clinics included in this study area are: Migrant and Rural Community Health Association (Michigan), Indiana Health Centers (Indiana), Hidalgo County Health Care Corporation (Texas), and Su Clinica Familiar (Texas).

2 Rank is based on total patients (6,969), all ages. A value of 0.0 indicates the item was not ranked in the top 20.

3 Diagnostic classifications are based on the ICD-9-CM categories.

Table 1

Figure 3 displays the top ten diagnoses for all ages (male and female) visiting migrant health clinics.

Age Group <1 (Infant)

Six of the top twenty diagnoses for this age group are "V" codes, or health maintenance visits. This suggests that prevention is a major component in the migrant health centers for this age group. In fact, almost 50% of all visits for this age group are for health maintenance. "Health Supervision of the Infant" (Code V20) accounts for 29.3% of all visits. Visits related to an infectious disease process account for 27.4% of all visits. Other principal reasons for clinic visits are nutritional (4.5%) and digestive and respiratory problems; the "Other" category accounts for 9.3% of all visits. The top five diagnoses account for approximately 65% of all visits to migrant health centers for males, females and total population under age one. The top five reasons for visiting migrant health centers for age <1 (male, female, total) are: 1) health maintenance, 2) active upper respiratory infection, 3) consultation without complaint or sickness, 4) otitis media, and 5) single birth (newborn visit). The development of clinical indicators for this infant migrant population should focus on these conditions (representing 65% of all visits) as potential for measuring outcomes.

Age Group 1-4 (Pediatric)

The pattern of visits for this age group is similar to that of the <1 age group. Specifically, the dominant reason for a visit is health supervision (20.7%). The second most common reason for a visit is otitis media (17.0%). This age group had about a 5% increase in otitis media compared to the age group <1. As with the age group <1, the dominant disease pattern is infectious and nutritional. For instance, reviewing the top ten reasons for visiting migrant health clinics, four are infectious, two are nutritional, and two are preventive visits. This pattern is typical of the infectious disease cycle. The "Other" category accounted for 18.6% of clinic visits. Since the top five

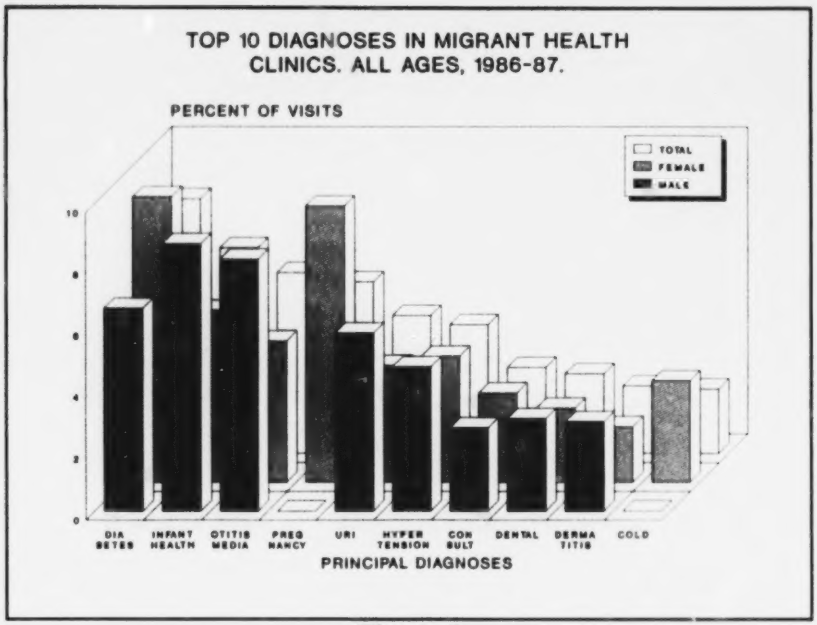


Figure 3

visits dominate (57.1% of all visits) for this age group, they should become the major diagnoses to measure and thus, develop clinical indicators for the migrant health data system.

Age Group 5-9 (Pediatric)

This age group also has health supervision and otitis media as the top two reasons for visiting the migrant health clinics. However, for this group otitis media ranks first. The distribution of the top ten diagnoses is not dominated by any one category as was seen in the previous age groups. For example, only 36.7% of all visits are accounted for in the top five conditions, about half the value of the previous two age groups. The addition of the top ten visits results in 52.4% of all clinic visits. At this age group we begin to see the appearance of dermatological and parasitic problems. However, as with the two previous age groups, the infectious disease cycle still dominates. For this age group, 26.2% of all visits are categorized as "Other."

Age Group 10-14 (Pediatric)

The distribution of the twenty most common principal diagnoses for this age group represents a rather diffuse situation. The range from the most common problem to the least common problem is only 4.6%. Further, the range for the top five problems is only 1.1%. This narrow range presents some difficulty in selecting pertinent clinical indicators. The fact that four or five conditions do not dominate this age group further exacerbates the issue of selecting appropriate clinical indicators. Of all age groups studied in this report, this age group is by far the most difficult for which to chose outcome measures.

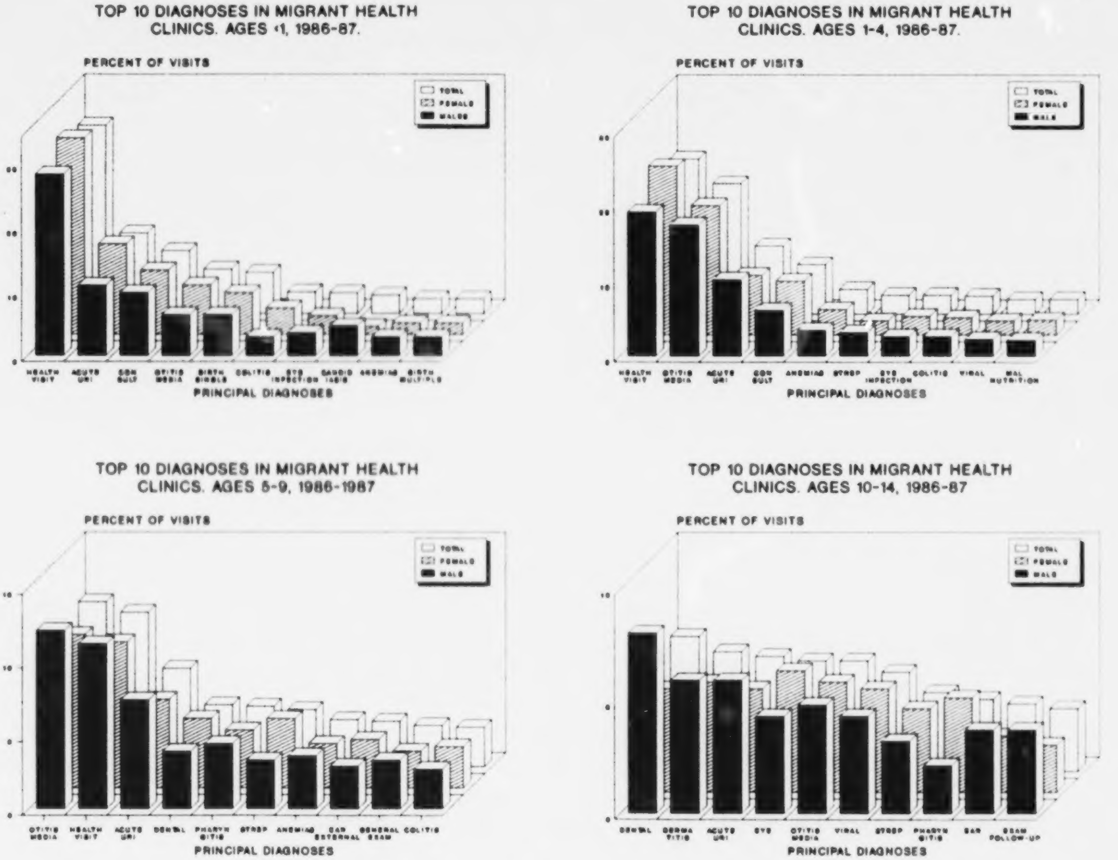
Of the 6,969 visits (all age groups), this age group represents only 6.1%. The "Other" category represents 39.0% of all diagnoses. The number one condition for this age group is dental problems, with a percentage almost twice as high in the male population. This is the first time dental disease appears and it is the number one problem for males. For females the number one problem is acute conjunctivitis. This age group visits clinics very seldom for health maintenance visits—only 4.6% of all visits. Contact dermatitis is the second most common problem for both males and females. The top twenty problems may be readily grouped into the following conditions: 1) infectious diseases, 2) respiratory problems, and 3) work-related conditions (such as contact dermatitis, parasitic disease, sprains and strains, and injury). This is the first age group where we begin to see an abundance of conditions which could be associated with typical migrant working conditions. The problems encountered by this pediatric group are very typical of the infectious disease cycle.

The comparison of the top ten diagnoses for the four age groups that have been discussed thus far is depicted in Figure 4. Clearly, the latter group (age 10-14) does not exhibit a pattern, which suggests the clinical indicators would be defined based on the magnitude of visits for the first three or four conditions. Possibly the groups 1-4, 5-9, and 10-14, which represent the pediatric population, could be considered as a single group for purposes of defining clinical indicators. This will be discussed later.

Age Group 15-19 (Adolescent)

Some significant changes begin to occur for this age group in the distribution of the most common principal diagnoses. Normal pregnancy becomes the number one reason for visiting a migrant health clinic, representing 16.5% of all visits for females. Dental disease begins to increase in importance as a reason for visiting migrant health centers for both males and females, and represents 6.3% of all visits. A troubling trend begins to emerge for females at this age group: diabetes is the third most common reason for visiting the clinics (4.6%). Males in this age group did not have any visits for diabetes. Another interesting and important trend is that six diagnostic codes are of the "V" type, indicating health maintenance visits. This suggests that at this age group prevention and/or health maintenance is very much a part of the protocol at migrant clinics. Common to other age groups and representing the infectious disease cycle, there are seven diagnostic codes which are indicative of an infectious etiology.

This age group (15-19) represents 8.6% of all visits in the surveyed migrant health centers. The top twenty problems represent 53% of all visits, which means approximately 47% are categorized as "Other." This is the largest "Other" group of any of the age


TOP 10 DIAGNOSES IN MIGRANT HEALTH CLINICS. AGES <1, 1986-87.

TOP 10 DIAGNOSES IN MIGRANT HEALTH CLINICS. AGES 1-4, 1986-87.

TOP 10 DIAGNOSES IN MIGRANT HEALTH CLINICS. AGES 5-9, 1986-1987

TOP 10 DIAGNOSES IN MIGRANT HEALTH CLINICS. AGES 10-14, 1986-87

Figure 4

groups investigated. This suggests that significant variation in health problems is encountered. The top five problems—normal pregnancy, dental disease, cold, diabetes, and dermatitis—represent 28.5% of all clinic visits for this age group. Certainly for females, clinical indicators must be reflective of pregnancy, diabetes, and infectious disease. On the other hand, for males, dental disease, dermatitis, and infectious disease problems must be considered as the major indicators for this age group. The first two diagnoses, dental disease and dermatitis, represent 16.5% of the visits. Additionally, these and other diagnoses experienced by the males in this age group are quite typical of a poor working environment. Examples of these problems include dermatitis, respiratory infections, and other respiratory problems.

Age Group 20-29 (Adult)

This age group (both males and females) is the second most frequent user of migrant health clinics (18.0%); for females only it is the most frequent user (14.0%). For females the major diagnoses are 1) pregnancy, 2) diabetes, 3) cold, 4) cervix, vagina and vulva inflammatory disease, and 5) special exams. These five problems represent 48.6% of all problems. The five most common principal diagnoses for males are 1) dermatitis, 2) strep throat/scarlet fever, 3) dental disease, 4) dermatophytosis, and 5) urethra and urinary tract disease. These five problems account for 23.4% of all clinic visits. Based on the analysis of this data, the development of clinical indicators for females should be straightforward; for males clinical indicator definitions seem to be less clear.

A shift in disease patterns occurs at this age. The infectious disease cycle typical for the ages under 20 is now being replaced by chronic and environmentally related problems. The male visits are quite typical of environmental problems and the females experience problems related to the chronic disease cycle. The concentration of problems occurs among the top five for women, but for males the concentration is much less. Further, very few males in this age group visit clinics. They represent only 4.0% of total visits.

Age Group 30-44 (Adult)

At this age group chronic diseases dominate the top five problems. Specifically, diabetes, hypertension, and back problems are chronic problems exhibited by males and females. Respectively for males and females, these chronic problems represent 16.9% and 18.8% of all visits for this age group. Also, for the first time arthropathies appear as a problem in the top twenty diagnoses. The other major set of problems which dominate this age group are environmental (for instance, back problems, contact dermatitis and other eczema, respiratory problems, and external ear disorders). Interestingly, infectious diseases still represent a significant problem (common cold, upper respiratory infection, and viral infections). Thus, although this age group is dominated by chronic disease problems, infectious and environmental problems are still significant. The focus of development for clinical indicators for this age group should be directed toward two major areas: 1) chronic disease problems, which are represented in both sexes, and 2) for females, pregnancy (perinatal conditions). As noted in the 10-14 age group and as well for this age group, the distributional patterns of the top twenty diagnoses are quite diffuse. Therefore, defining outcome measurements in terms of clinical indicators becomes somewhat more difficult.

Age Group 45-64 (Adult)

The conditions or problems experienced by this age group are clearly chronic and related to the aging of the population. The top five problems represent 50% of all visits and are dominated by diabetes, hypertension, arthropathies, and soft tissue disease. This pattern is very typical for females, while some minor variances exist for males. For instance, back problems and dermatitis are among the top five diagnoses; these are environmental or work-related problems. The second top five problems are, however, dominated by environmentally-related conditions for both males and females. The proportion of visits is significantly less, but nevertheless a shift occurrs from the top five chronic disease diagnoses. The bottom ten problems are dominated by infectious codes and a few typical lifestyle categories (i.e., obesity, dental, and mental disorders). This age group represents approximately 15% of all visits to migrant health clinics.

Two problems dominate the top ten principal diagnoses for this age group;

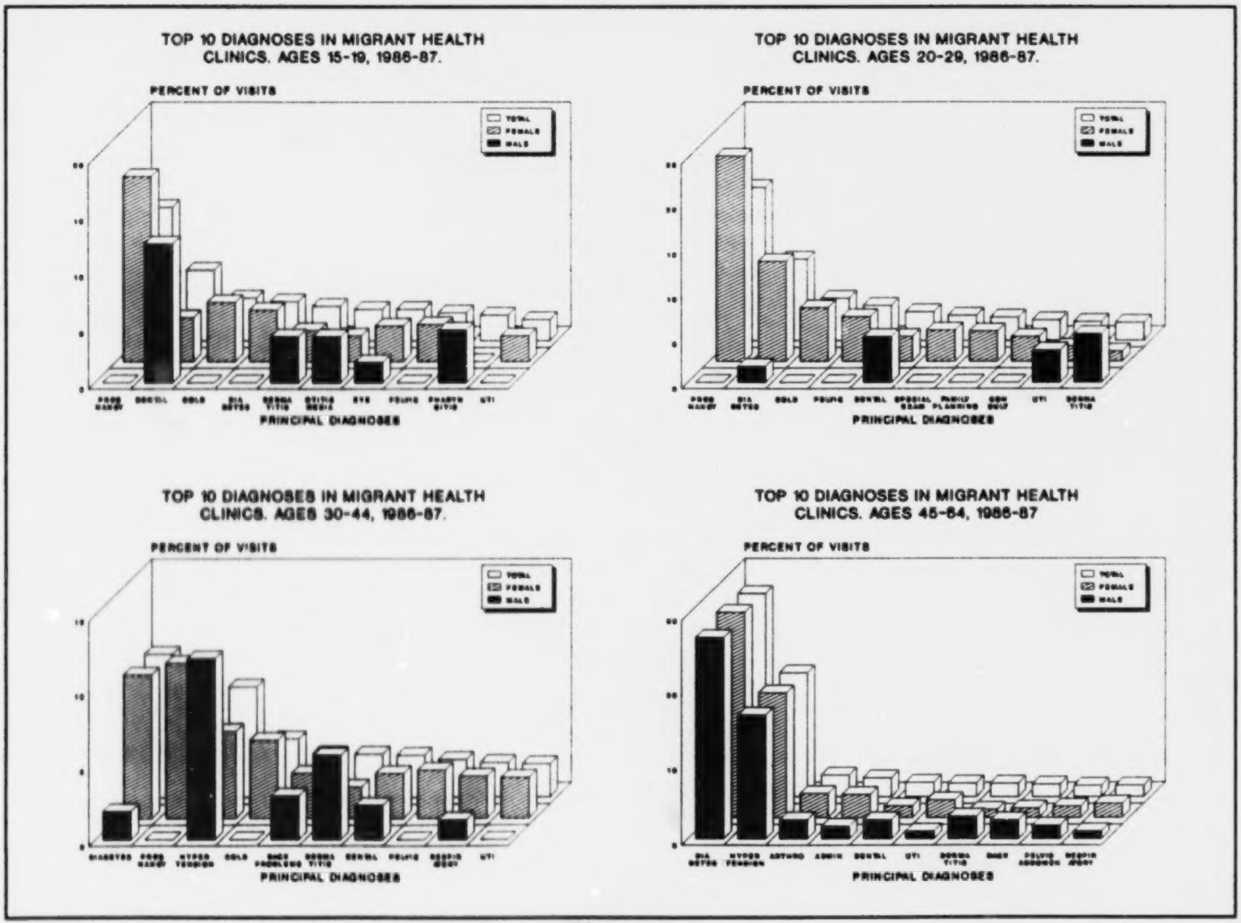


Figure 5

thus, outcome measurement would be most appropriate for the principal diagnoses of diabetes and hypertension. Although other problems are presented, their magnitude does not dictate the development of a comprehensive set of clinical indicators. However, indicators representing broad categories such as infectious or environmental might be appropriate to develop. Figure 5 compares the last four age groups analyzed. The dominance of problems in the top five categories is best portrayed by the age group 45-64.

Age Group >64 (Geriatric)

This age group represents only 1.5% of all visits to migrant health centers. Of the 6,969 visits were made to four migrant health centers during the study period, only 107 visits were made by individuals age 65 and over. Overwhelmingly, diabetes and hypertension accounted for the major problems (70%). Since the numbers are so small for problems represented by the 18 other categories, the discussion of such would be of little statistical value due to significant variation. However, the development of outcome measures should pose very little difficulty because the two major problems represent 70% of all problems. Therefore, this age group presents the most clear direction for outcome measurement.

Program Health Summary

Program health status data must serve as our major source for the development of clinical indicators by life cycle. The analysis of the data by the nine age groups has revealed significant variations in disease patterns (i.e., reasons for visiting migrant health clinics) which can be used as a major input to the identification of appropriate areas for measuring outcome. For those age groups where the problems concentrate in the top five categories, the development of clinical indicators to measure outcome should be relatively straightforward. Thus, in this analysis the age groups <1, 1-4, 5-9, 15-19, 20-29, 45-64, and over 64 are typical of this pattern (i.e., where the top five diagnoses make up a major portion of all visits). The two potentially most difficult groups for which to develop clinical indicators, based on this analysis, would be the 5-9 and 30-44 age groups. In any event, the development of clinical indicators in migrant health centers must incorporate the results of the program health status analysis.

Migrant Clinics and the National Ambulatory Medical Care Survey

Another perspective to evaluate in order to understand the health status of migrants is the relationship of migrant-specific data (obtained from 1986-87 survey of four migrant centers) to the National Ambulatory Medical Care Survey data (NAMCS, 1985), which is sample survey data representing ambulatory care in the U.S.

The age distribution of the populations visiting these settings is quite different. For males and females under age 15 there is a 2-to-1 ratio of visits for migrant workers compared to the NAMCS population. Thus, migrant clinics see twice as many children under age 15 than do ambulatory care settings in the U.S. as a whole. The only other group where migrant clinics see more patients than the ambulatory care setting is females aged 15-44. Probably the most significant difference occurs at the 65 and over age group. Only 0.8% (males) and 0.7% (females) of total visits are represented by this age group in the migrant clinics, whereas the respective percentages for the national ambulatory care setting are 8.0% and 12.5%.

These age distribution characteristics agree with the previous community health status analysis, where migrant health clinic visits are dominated by younger age groups and the elderly are sparsely represented. Further, the typical demographic profile of the homebase migrant worker is one of a much younger population and one in which the elderly population is under-represented compared to the U.S. population. The predominance of visits to migrant clinics by younger ages and to U.S. ambulatory care settings by older ages is striking.

The male/female ratio of visits for migrant farmworkers visiting migrant health clinics for the age groups <1, 1-4, 5-9 and >64 are almost equal to one. Females in the age groups 15-19, 20-29, and 30-44 outnumber males dramatically in their use of services. Also, females in the 45-64 age group visit 1.5 times more frequently than males. The highest use of services by age group for males is the 1-4 and 45-64; for females the highest use is in the 20-29 and 30-44 age groups. This use pattern is similar to that found in the NAMCS data. The age groups with the lowest use of health services are >64 and <1 for males, and >64, <1, and 10-14 for females.

Principal Diagnoses—Migrant Health Clinics vs. NAMCS

The top twenty most common principal diagnoses in migrant health clinics were compared with the NAMCS data. Of the top twenty diagnoses in migrant health clinics, only eight were represented in NAMCS data. Thus, visits related to twelve diagnoses in migrant health clinics did not appear as visits in the NAMCS data. Typical diagnoses not appearing in the NAMCS data were infectious (cold, acute conjunctivitis, strep throat/scarlet fever, and viral infections), nutritional (anemias, gastroenteritis, and non-infectious colitis), and occupational (contact dermatitis and eczema).

The eight diagnoses which did appear as visits in both clinical settings were substantially different. Seven of the eight principal diagnoses for visiting health centers were dramatically higher in the migrant health clinics. Thus, diabetes (the number one reason for visiting a migrant center) was 338% above the U.S. average (where the U.S. was set to equal 100). Other principal diagnoses which were significantly above the U.S. were health supervision of infant or child (151% above), otitis media (138% above), normal pregnancy (49% above), acute upper respiratory infection (97% above), and dermatitis (150%). Additionally, visits related to hypertension were 4% above the U.S. average (Figure 6).

Analyzing the principal reasons for visiting health clinics does not provide a measure of the prevalence or incidence of a disease. Clearly, the denom-

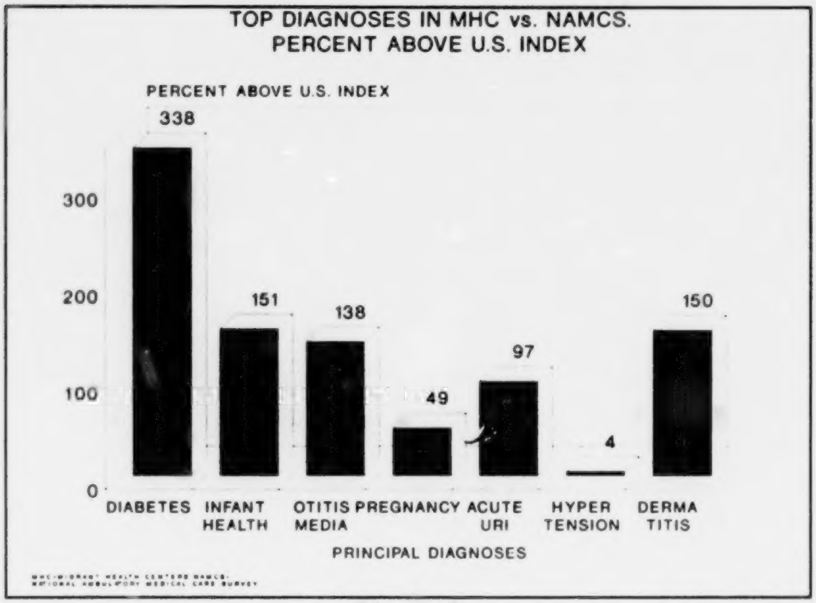


Figure 6

inator is not the population at risk, but is the total number of visits made by the population during the specified period. Thus, for any one principal diagnoses there is a proportional morbidity ratio (i.e., what percent of total clinic visits is made for each specific diagnosis or morbidity to the clinic?). Such a ratio does not give true risk, since the population at risk for each event is unknown. However, the ratio does tell us the relative ranking of each type of visit based on total visits, and can be compared to similar ratios in other settings.

The utilization differences between clinics could be confounded by the underlying characteristics of the population, and may not be indicative of significant differences between the two groups. The analysis in the community section of this report underscored the major demographic differences between the migrant population and the general U.S. population. Understanding these differences allows us to make some general statements about this comparison of migrant-specific data and the NAMCS data.

In summary, utilization rates by principal diagnosis show significant variations between migrant farmworkers and the general population. Farmworkers do visit clinics more frequently (well above the U.S. population) for eight conditions, and they visit for infectious, nutritional and occupational reasons which do not even rank in the top twenty conditions for the general U.S. population. Farmworkers do have different problems; farmworker visits exceed the visits by the general population for many common principal diagnoses. Therefore, these results are important to the overall understanding and interpretation of migrant-specific problems.

Co-Morbidity Patterns

This report has for the first time documented the prevalence of co-morbidities among farmworkers who visit migrant health clinics. The prevalence of co-morbidity at the time of death for the general population has been researched extensively. For example, R. A. Israel reported that more than one cause of death was reported in 35% of deaths in 1917; the percent increased to 60% in 1955 and to 73% in 1979. Using National Health Interview Survey data, Rice and LaPlante about 1.4 chronic conditions reported in 1969-71 and about 1.6 in 1979-81 for each person 65 years of age and older who had limited activity. Recently, an Advance Data report indicated that 48.8% of the population over 60 years of age had more than one morbidity. In fact, 25.9% of the population had two or more, 14.6% had three or more, and 6.0% had four or more co-morbidities. The nature of co-morbidity problems for age groups under than age 60 is not documented. Therefore, the co-morbidity patterns revealed in the migrant population cannot be compared to national data for ages under 60 years. However, the frequency of co-morbidity patterns for migrant farmworkers above and below 60 years of age will convey information about their degree of illness.

Over forty percent (43.9%) of all farmworkers who visited migrant health clinics had more than one morbidity. The percentage of males with more than one morbidity is 40.6%; for females the percentage is 45.8%. The age groups with the highest percentage of co-morbidities are the <1, 1-4, and >64 groups. The respective co-morbidity averages are 2.3, 2.0, and 1.9. The average number of co-morbidities for all age groups was 1.7. The co-morbidity patterns for males and females are similar to the total pattern. Thus, for males and females the three age groups with the highest percentages of co-morbidities are <1, 1-4, and >64. The respective percentages for males are 63.0, 54.8, and 50.0; for females the respective age group percentages are 61.2, 53.6, and 59.2. The male age group with the fewest co-morbidities is 15-19 and the corresponding female age group is 10-14.

Of the 6,969 migrant patients who visited the clinics, 3,057 had more than one morbidity, producing 5,066 additional morbidities. Generally, the initial morbidity category also produced the largest number of co-morbidities. For example, "Diseases of the Respiratory System" ranked number two for initial morbidity seen at the migrant clinic while the presenting co-morbidity was also coded as "Diseases of the Respiratory System." Apparently, one respiratory problem produced a second one or a third. It would not be unusual to see initial and subsequent morbidities group within a system category. On the other hand, several variations did occur. For instance, infectious and parasitic diseases, the fifth most common initial morbidity for the total migrant population, produced a rank of ten for infectious and parasitic diseases as the co-morbidity. The number one ranking co-morbidity for farmworkers who had an initial ICD code of "Infectious and Parasitic Disease" was "Diseases of the Respiratory System." Another example would be "Endocrine, Nutritional and Metabolic Disease and Immunity Disorders." This category ranked fourth as the initial morbidity, but the number one ranking co-morbidity for this code was "Diseases of the Circulatory System."

The co-morbidity patterns observed in this migrant population suggest a most vulnerable group, with significant co-morbidities that have the ability to produce substantial disability. Our only basis for comparison to national data is for those over age 60; for this age group the farmworker population has comparable problems and numbers of co-morbidities. The analysis of the other age groups shows that a significant number have co-morbidities, ranging from approximately 30% to 60% of the population in each age group. Possibly the delay in seeking care, unavailability of care, lack of access to care, potentially appalling working conditions, lack of perceived illness, transitory nature of farm work, and need to work at all costs in order to survive are critical reasons for the poor health status of the migrant population. Whatever the reason for not visiting the health clinics, the outcomes are clear—multiple morbidities representing a population with poor health status that may need significantly greater care and more treatment due to the delay in receiving initial care. Of course, primary prevention will have the most benefit and, as noted previously, this is practiced when and where feasible.

Clinical Indicators

Several approaches must be considered in the development of clinical indicators for migrant health centers. In this report, the demographic analysis, community health status information, migrant program-specific data, comparisons of data to national surveys, and patterns of co-morbidity have all enhanced our understanding of migrant health problems and have underscored the need to develop outcome measures specific to migrant

Clinical Indicator Recommendations for Migrant Health Centers by Age Group and Life Cycle

Target Condition[1]	<1	1-4	5-9	10-14	15-19	20-29	30-44	45-64	>64
Anemia	✓	✓							
Otitis Media	✓	✓	✓	✓					
Gastroenteritis/Colitis	✓	✓							
Well Baby Care (Supervision)	✓	✓	✓						
Immunizations	✓	✓							
Upper Respiratory Infection	✓	✓							
Strep Throat		✓	✓	✓	✓	✓			
Parasitic Disease			✓	✓					
Dermatitis/Eczema				✓	✓	✓	✓	✓	✓
Pregnancy					✓	✓	✓		
Diabetes					✓	✓	✓	✓	✓
Female Reproductive Problems					✓	✓	✓		
Hypertension							✓	✓	✓
Arthropathies								✓	✓
Infections (Conjunctivitis, URI, Strep, Scarlet Fever, Viral, Cold, Otitis Media)	✓	✓	✓	✓	✓	✓	✓	✓	
Respiratory									✓
Digestive									✓
TOTAL BY AGE GROUP (LIFE CYCLE)[2]	7	8	5	5	6	6	6	5	6

[1] Target conditions which represent approximately 40% to 70% of all diagnoses in migrant health clinics. Additionally, the conditions represent the majority of high risk problems as defined in the community health status assessment.

[2] Number of clinical indicators by life cycle is: Perinatal (7), Pediatric (10), Adolescent (6), Adult (8), Geriatric (6).

Table 2

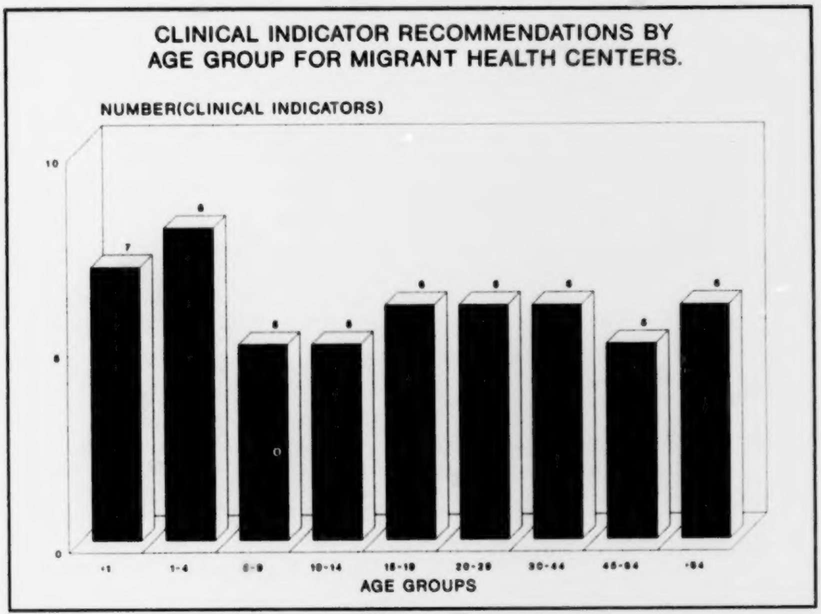


Figure 7

health centers. The measurement of outcome must be defined by a set of clinical indicators which are comprehensive and responsive, and yet do not burden those who must collect the information. Each previous section of this report suggested recommendations. The intent of this section on clinical indicators is to further develop and refine our understanding of the basic clinical problems encountered by migrant farmworkers, and to determine which clinical problems (i.e., most common principal diagnoses) warrant the development of clinical indicators.

A literature review of major medical problems encountered by the migrant population was completed to determine the most frequently occurring diagnoses. Of the four top ranking problems in the literature, three were also among the top problems as determined by this study. In an attempt to group the problems noted in the literature, the health field concept was utilized as a framework. Lifestyle, environment, health care delivery system, and biology became categories into which medical problems were classified.

Criteria for Selecting Clinical Indicators

The review of the literature on clinical indicators revealed 32 criteria which may be important to the selection of clinical indicators (see Gloassary of Terms). Using all of these criteria (some of which overlapped in meaning), a matrix was designed to illustrate the frequency or number of times the criterion was mentioned in the literature as being important to the selection of a clinical indicator. As a result of this analysis, 32 criteria were grouped into five general categories: I) Epidemiology, II) Intervention, III) Data, IV) Management Criteria, and V) Diagnostic Criteria.

Using the detailed analysis reported in this study, a list of specific outcomes by age groups and life cycles are recommended as candidates for development of clinical indicators (Table 2). The framework outlined above for detailing the criteria for developing clinical indicators and the analysis in this report was used to generate the problem lists exhibited in Table 2. These problem lists of most common principal diagnoses are appropriate for the development of clinical indicators for migrant health clinics. Further evidence of what measurements should be collected is demonstrated by the dominance of problems occurring in the top five, ten or twenty diagnoses by age group. Figure 7 provides the dominance statistics for the nine age groups. Overall, 47% of all problems occur in the top ten principal diagnoses (i.e., the principal reason for visiting the health center). The age-specific analysis clearly demonstrates that all but three age groups experience the majority of the problems in the top ten principal diagnoses. Three age groups which do not meet this criterion are the 10-14, 15-19, and 30-44 age groups. Two of these three age groups, 10-14 and 15-19, represent about 14% of all visits to migrant health clinics. The third group (30-44) represents a substantial portion of the visits (16.8%). In this latter case, one recommendation would be to consider the problems represented in the top 20 diagnoses since this encompasses 61% of the principal diagnoses for the 30-44 age group.

The overall recommendation is to have the Migrant Clinicians Network evaluate the lists in the accompanying tables, refine the list, and propose specific indicators which would be acceptable to migrant health centers for collection. Many times, it is not the criteria which are so important or the detailed list of problems which is so critical; what may be the most important issue to the development of clinical indicators would be time availability, cost of collection, acceptability of the concept of outcome measurement, availability of computer technology, size of the migrant health clinic, and clinic staffing. Additionally, migratory patterns make it necessary to collect data longitudinally rather than over a single point in time. As can be deduced, there is the potential for myriad problems which must be acknowledged and addressed before beginning the implementation of any such data collection efforts related to outcome measurement and clinical indicators.

Given the facts presented in the analysis of this study and the criteria analysis for the selection of clinical indicators, it is therefore suggested these conditions should be targets for the development of clinical indicators and outcome measurement. However, as noted, the issues concerning statistics may not be as important as the practicality of the implementation. Accordingly, a dovetailing of these two factors must occur. ❖

Glossary of Terms

Ability to Report Data at Centers: Are all migrant health centers able to correctly record the data?

Acceptable to Clinician: Is the procedure or intervention easily utilized by the clinician?

Accuracy: The degree to which a measurement represents the true value of the condition being measured.

Benefits: Does the intervention positively impact the condition?

Characterizes All Migrant Health Centers: Is the condition or disease found to exist at all migrant health centers?

Common Technique: Is there standard agreement on the intervention or treatment of the condition?

Consistency in Coding Data: Will the health centers use the same code for a condition or disease? The ICM-9-CM coding scheme allows different codes for the same condition.

Cost: Is the cost of the intervention, performance of the test, and recording of results low or within the health center budget?

Data Availability: Will the data collection and extraction be disruptive to the health center?

Ease of Diagnosis: Is the disease well defined and easy to diagnose in both field and clinic settings?

Effectiveness of Intervention: The extent to which a specific intervention does what it is intended to do for a defined population.

Efficiency: Is the effective maneuver being made available to those who could benefit from it with optimal use of resources?

Epidemiology: A field of study concerned with the observation and description of the occurrence, distribution, size, and progression of health and causes of disease and death in a population.

Etiologic Evidence: Is there proof for the cause or origin of the disease or condition?

Functional Impact: Does the disease cause significant impact on the function of patient?

Impact of Care: Is the natural history of the disease or condition sensitive to the quantity or quality of care received by the patient?

Incidence: Are there a significant number of new cases of the condition or disease each year?

Lead-Time Bias: Survival can appear to be lengthened when screening advances the time of diagnosis, lengthening the time between diagnosis and death without any true prolongation of life.

Legality/Liability: Has permission been granted to use patient information from health centers?

Length-Time Bias: Screening sometimes produces a disproportionate number of slowly progressing diseases while missing aggressive cases which are present in the population for only a short time... a missed window of opportunity.

Life Cycles, Consistent With: Can the disease or condition be sorted according to age, sex, and race?

Management Criteria: Medical management of the condition should be well-defined in at least one of the following processes: prevention, diagnosis, treatment, or rehabilitation.

Number of Encounters Per ICD-9-CM: Ability to code patient encounters by Diagnostic Related Groups.

Particular to Upstream Migrant Health Centers: Is the condition or disease only present in the upstream migrant health centers?

Predictive Value: In screening and diagnostic tests, the probability that a person with a positive or negative test is a true positive or true negative. The predictive value is determined by the sensitivity and specificity of the test, and by the prevalence of the condition.

Prevalence: Is a large proportion of the population affected by the condition or disease? Rates should be high enough to permit the collection of adequate data from a limited population sample. Prevalence rate refers to the number of people who have a disease at a particular time (a snapshot or cross-section).

Reliability: Will the test or intervention obtain the same result when repeated?

Risks: Are the hazards to the patient and clinician outweighed by the benefits of a particular intervention?

Sensitivity: Does the examination or test pick up the condition every time (i.e., correctly test "positive")?

Simplicity of Intervention: Does the intervention or test require simple measures or elaborate, time-consuming ones?

Specificity: Does the examination or test correctly identify non-diseased individuals (i.e., correctly test "negative")?

Validity: The degree to which a measurement measures what it purports to measure.

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Additional copies of this monograph may be requested from the Migrant Clinicians Network, 2512 South IH35, Suite 220, Austin, TX 78704, (512) 447-0770 voice, (512) 447-1666 fax. For information concerning the full report on this research, contact MCN at the number above.

**National Association of
Community Health Centers, Inc.**

NACHC 1993 Policy Position
MIGRANT HEALTH PROGRAM

A. The Need for Migrant Health Services

America relies on migrating and local seasonal farmworkers to harvest its labor-intensive agricultural crops. Since the growing season varies with climate, migrants yearly travel from south to north, often across thousands of miles, finishing one crop and moving to the next just as it ripens. Whole families routinely arrive in towns they are not familiar with with no firm employment, no housing (often even after employed) and no certification under government assistance programs -- due simply to their mobility.

The increase in the gap between most Americans and the poorest of the poor over the last twelve years is nowhere more telling than in the lives of migrant and seasonal farmworkers. Pesticide dangers and other environmental exposures, low education levels, exemption from many otherwise common worker protections and isolation due to geography, language and labor force characteristics all combine to prohibit even modest increases in annual income, health status or working conditions for farmworkers.

Study after study has shown farmworker characteristics in many areas to be worse off than almost any others. Although poverty and mobility make national data collection difficult, education levels, presenting diagnoses, job training graduation, and developmental impediments have been documented.

A health care delivery mechanism to serve this community must be a highly trained, occupationally/liguistically/culturally responsive, fiscally buttressed system of primary care clinics benefitting from more resource support than comparable medical service providers in other communities. Fortunately, the Migrant Health Clinic program provides the model and the core for such an effort, but its scope and its resources fall significantly short of the job needed. Where the clinics can be found, farmworkers can be cared for effectively during their brief stay. In other localities, they work through illnesses and injuries -- an emergency room in town an hour away during the work day is seldom a recourse they are able or willing to take.

B. Existing Program Characteristics

The federal Migrant Health Program currently serves over 500,000 farmworkers each year, but it is estimated that 3,800,000 are left in need of care, relying on distant emergency rooms and charity care where it can be found. Often care is delayed or non-existent, resulting in untreated illnesses growing more serious and requiring more complex and costly care. Clinics operate diferent models of care depending on community size and intensity of farm labor in their agricultural areas. Most also serve local community residents, but operate targeted farmworker programs that may include evening clinics in the migrant camps on farms and ranches, educational and other outreach worker programs, and efforts to use the links of the national chain of clinics, in sending medical records along for workers who "travel the stream" each year.

The program serves less than 20% of those in need, and advocacy efforts are stymied by other pressing national priorities -- such as health care reform. However, the extreme poverty and categorical exclusion from public assistance in which so many farmworkers live is totally at odds with basic worker protections in this country and must be addressed directly. Major investment in the Migrant Health Program is a key way to accomplish this.

C. Recommendations for 1993

In the current health policy debate, Migrant Health program efforts are in jeopardy from a number of directions. Annual program appropiations have not kept pace with sister programs. Medicaid, the government's health care program for the poor, poses so many exclusions for farmworkers due to residency and other barriers that they seldom can make use of it. The health care reform fervor currently sweeping through Washington is broadly focused, leaving farmworkers and other underserved groups in grave danger of once again being overlooked by those oriented to the needs and ability-to-pay of the middle-class, not the nation's harvesters.

Action is needed on Appropriations, Medicaid and Health Care Reform simultaneously. Major improvements in access to care for farmworkers, via expansions for the Migrant Health Program and via Medicaid are necessary. The expertise, facilities and targeting of the Migrant Health system is the only effective way to provide services to migrant and seasonal farmworkers. It must be built in to the new system, but not jeopardized by threat of being 'folded in' or 'homogenized'. Rather, it must be expanded greatly and its unique identify retained as a targeted resource to which farmworkers can turn. Accordingly, we call for the following:

- **Provide universal, affordable health insurance coverage and comprehensive benefits for everyone, with efficient and fair cost controls.**

  FY94 ACTION: Assure that Migrant and Seasonal Farmworkers are covered under Medicaid or its successor program as an eligible group. Provide them coverage nationally by the program as they travel, without regard for state-to-state differences in eligibility and benefits as at present.

- **Begin immediately to expand America's health centers** to ultimately reach every underserved community with cost-effective preventive and primary health care, including continued support for essential services not covered by insurance and for care to special populations such as farmworkers or homeless persons.

  FY94 ACTION: Raise the annual appropriation for the Migrant Health Program from $53 million for FY1993 to $100 million for FY1994. A funding increase of $47 million for FY1994 will not fully fund the program, but it will allow penetration into numerous areas with an intensity of services missing to date.

- **Make managed care and managed competition work for underserved people and communities**, including development of health care networks involving health centers and other "safety net" providers, and assuring their inclusion in managed care efforts.

  FY94 ACTION: Assure that the Migrant Health Program is fully included in any general managed care health reform program, as the key provider of care to this population. The mobility of migratory farmworkers, their special health needs and their poor health status and consequent higher costs of appropriate care will guarantee that they would be inadequately served in any broad capitated scheme.

- **Reform health professions training programs**, to significantly expand primary care training and increase primary care practice in underserved areas.

  FY94 ACTION: Substantially reform federal health professions education and training programs to stimulate expanded training of, and practice by, primary care providers. Find students who want to pursue a career in primary care, emphasize primary care in both undergraduate and graduate training, link training programs and Migrant Health Centers, and provide rewards for primary care practice, particularly in underserved areas such as farmworker communities.

We are is committed to the inclusion of farmworker health programs in a new care system for the country, with complete protection for the service adaptations needed. The mobility of migratory farmworkers, their special health needs such as pesticide poisoning treatment, and their poor health status and consequent higher costs of appropriate care are but three characteristics of farmworker health care delivery that will require special system configuration.

April 11, 1993

To: Helsinki Commission

From: Helen Johnston

Subject: Migratory farm labor

I find it hard to believe that a nationwide problem that has festered so long still remains so far from solution. As one speaker testified last Friday, we as a Nation have lacked the political will to follow through even when reasonable solutions have been proposed and some reasonable laws have been enacted.

Political will--with follow-through--was demonstrated when wartime labor shortages threatened American agriculture during World War II. Unfortunately, some of the "solutions" at that time later degenerated into problems. The importation of British West Indians to cut sugar cane is an example of a program beset by problems over the years. The legal basis for the World War II importation of "braceros" from Mexico no longer exists but the numbers crossing the Border continue to flood agricultural labor demand areas.

The one large-scale program created to benefit "domestic" (as opposed to "foreign") workers and their families grew out of the great depression of the 1930's and was continued during World War II to help meet farm labor shortages. Because of grower hostility to outside"interference"it was hastily dismantled after World War II as "no longer needed."

Hired farm work was once a stepping stone to independent farm ownership. Hired workers and employers often worked side by side. As large-scale industrialized farming replaced much of the old small-scale farm enterprise, it failed to assume the responsibilities of other industry toward its workers. The people recruited for farm work -- usually on a temporary basis for the duration of a crop season -- came from the most vulnerable segments of the population. At first recent immigrants from Europe joined Southern Blacks and some impoverished rural Whites along the East Coast. Dust-Bowl refugees from Oklahoma, Arkansas and other States joined "ragheads" from India, Blacks, Filipinos, and Chinese laborers along the West Coast. Mexicans, native-born Latinos, and former sharecroppers circulated through central United States and elsewhere.

Hired farm work was no longer ~~a~~ the former stepping stone; it was a "get-out-if-you-can" situation. World War II's industrial development and military recruitment provided an escape for many who had no wish to return to the substandard living and working conditions they had left behind. Thus the composition of the migrant farmworker population changed with the entry of new "have-not" people.

Hired farm labor continues to be a "get-out-if-you-can" situation, not because the work itself lacks dignity and innate worth but because the conditions of work continue to be unacceptable in terms of our general work standards or simple standards of human decency. Typically a worker has no power to bargain with his employer--he may not even know the name of the employer for whom he is harvesting a crop--nor under most circumstances can he risk joining with other workers to improve his living and working conditions. So the hired farm worker population continues to change over the years as some find a way out and are replaced from an apparently inexhaustible wupply of impoverished people, many from outside our national borders.

Docility, and a strong arm and back are the chief worker requirements ~~requirements~~ imposed by employers in industrialized agriculture. To them, labor union organization continues to be anathema. Yet good faith bargaining between employers and organized groups of workers might be the employers' best insurance of a labor supply when and where he needs it, as well as a means of upgrading workers' present unacceptable living and working conditions.

Would food cost more? It might, but consumers have demonstrated readiness to pay more for other needed commodities produced under labor conditions that assure workers and their families a healthful, dignified, safe living and working situation.

U. S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Public Health Service

From Public Health Reports

Agricultural Migrants and Public Health

By LUCILE PETRY LEONE, R.N., M.A., and HELEN L. JOHNSTON

A COOPERATIVE inter-State and intra-State approach to migratory labor health problems was discussed by State health authorities during their Washington meetings November 4–7, 1953. At these meetings, the Association of State and Territorial Health Officers adopted the following resolution as recommended by its Special Health and Medical Services Committee:

> "The Association encourages regional conferences . . . of health officers of States along major migratory streams to work out reciprocal programs for protection of the health of residents and migrants . . . to assure greater continuity and uniformity of services to migrants moving from State to State; and to share experiences on how localities and States go about meeting their problems. It is further recommended that each State and Territorial Health Officer examine the situation in his own jurisdiction and sponsor conferences with other State agencies concerned with the migratory problem."

In support of its recommendations, the Committee pointed out that "a large number of farm workers, many with families, migrate from State to State along fairly definite routes following the harvest of the major farm crops. Experience has shown that there is a high incidence of illness among these people and that there is a great variation in standards and services from State to State. The control of communicable disease and the meeting of the general health needs of groups of workers and their families at points along the routes would benefit from continuity and greater uniformity of services and procedures. It is believed that effectiveness of each individual State program would be increased by such a cooperative approach. It would tend to eliminate gaps and

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Mrs. Leone, Assistant Surgeon General and chief nurse officer of the Public Health Service, is chairman of the Service's Interbureau Committee on Migrants. She served in 1952 as co-chairman with Dr. Otis L. Anderson, Assistant Surgeon General, and chief of the Bureau of State Services. Miss Johnston, a staff member of the committee, has done extensive work in the field of rural health for the Public Health Service; from 1943 to 1949 she was an economist in the Department of Agriculture.

The following background information is based largely on the work of the committee, which has recently prepared a general overview statement of the current situation, including data from detailed national and State reports concerning the living and working conditions of farm migrants, their health situation and services, and recent recommendations by a variety of groups.

The health problems involved are varied and complex. An interchange of experiences among health agencies dealing with these problems would serve a useful purpose in the development of improved practices. The pages of Public Health Reports are open to papers and reports on this topic.

duplications. It would also tend to improve services and standards and reduce present wide variations from one locality and one State to another."

The Situation

More than a million farm workers and their dependents follow the crops each year, moving from State to State as well as within States to supplement the local labor force at critical periods of crop production (*3*). Migrants comprise only about 7 percent of the farm labor force. They are employed in significant numbers on only about 2 percent of the Nation's farms, but to the large-scale industrialized farm and to many smaller specialized farms their help is indispensable. Without them, crops in some areas could not be produced and harvested. At the present time, migrants help to meet peak season farm labor demands in local areas of nearly every State for at least a few weeks of each year. Even with increased farm mechanization and greater productivity per worker, it seems unlikely that the need for them will wholly disappear.

Farm migrants can be roughly divided into the following major groups, according to seasonal routes (*4*):

- Atlantic Coast—chiefly Negro families working in fruits and vegetables;
- Texas to the North Central and Mountain States—chiefly Spanish-American families working in sugar beets;
- Texas to Montana, North Dakota, and Canada—single men, or men who leave their families at home as they follow the wheat and small-grain harvest;
- Texas to California and the Mississippi Delta—Spanish-American families working in cotton;
- South Central to North Central States—Anglo-Saxon families working in fruits and vegetables;
- South Central States, Arizona, and southern California to northern California and other western States—Spanish-American, Negro, Indian, Anglo-Saxon, Oriental, and Filipino families working in fruits, vegetables, and cotton.

About half of the farm migrants are United States citizens. Most of the remainder are Mexican nationals. During 1952, nearly 200,000 Mexican farm workers came into the country temporarily under an international agreement between the United States and Mexico (*5*). Several times this number came into the United States illegally as "wetbacks," crossing the Rio Grande or elsewhere along the Mexican border without being detected (*5, 6*).

The aliens who enter the United States legally present a relatively minor problem. They are single males, screened for physical defects before entry. Unlike domestic migrants, they work under contracts which provide minimum guarantees regarding wages, housing, transportation, and protection against occupational disease and accident.

Wetbacks, on the other hand, enter the country without physical examination. They work without contractual protection and under constant threat of being apprehended and deported. They have no recourse if the wages paid are less than those offered, or if housing or other living and working conditions are below a minimum standard. The control of wetbacks is under the jurisdiction of immigration authorities, but the possible spread of disease by them is a public health concern.

Of still greater concern to health, education, and welfare agencies than the foreign migrants are the three-quarters of a million domestic workers and their dependents who comprise half of the farm migrant population. Citizenship entitles them to the rights and benefits enjoyed by other citizens. Too often their rights have been ignored because of local residence laws, shortages of local services, community disinterest or antagonism, and other reasons.

Many domestic migrants belong to a racial or national minority. Some are family farm workers or operators from marginal farming areas who become part of the farm migrant labor force for part of the year. Illiteracy or inability to speak and read English are common among them.

Working and Living Conditions

A single worker or worker with his family may travel only within one county or he may travel more than a thousand miles and through a half-dozen or more States. In any case, the work on which he depends is so far from home that there is no chance to return each evening. "Home" may be only the one of his temporary residences in which he happens to spend several months of the year. It is unlikely to be home in the sense that it confers upon him and his family legal residence status. Nor is it home for a long enough time to enable the family to build for itself a permanent place in the community.

The professional or skilled worker who moves to look for a better job sooner or later becomes assimilated into his new community. But for the agricultural migrant, migrancy is a regular condition of his employment. He may never live long enough in a single community to share the rights and benefits available to other citizens. He is not a commuter, nor does he move from one community where he has been a permanent resident to another where there may be only a temporary dislocation during the process of assimilation.

The agricultural migrant belongs to a heterogeneous, widely dispersed group that cannot easily be organized to improve its situation. Wherever the migrant goes, he and his family are "outsiders." Their constant need for shifting from place to place makes it impossible for them to accumulate wealth or to build substantial housing. In addition to the fact that residence requirements bar him from qualifying for some community services, the migrant, himself, may lack interest or understanding, or he may be afraid to seek needed services, hesitating to disturb a possibly unfriendly community. Local residents at best may be indifferent and at worst, hostile, afraid that he and his family represent a hazard to the health, morals, and property of the established community.

Earnings

Like most other hired farm workers, he is not covered by minimum wage, workman's compensation, unemployment compensation, and other protective legislation. He also lacks the health and welfare benefits made available to many industrial workers through collective bargaining.

Health and the Farm Migrant

". . . While some transients resemble, in their hygienic surroundings, residents of the same economic status, a greater proportion are forced to exist under almost every imaginable variety of insanitary condition . . . Serious overcrowding in the shelters is almost universal . . .

"Many camps not only have unsatisfactory facilities for sewage disposal but lack even a water supply that is fairly safe . . . A high rate of digestive diseases is normally found among persons living under such conditions.

"The effect of transients on community health is to increase the hazard of ill health to residents and to raise the incidence of most of the communicable diseases . . . This results chiefly from the fact that transients are not given equal consideration in community programs of sanitation, preventive medicine, and isolation of infectious cases of communicable disease."

These excerpts summarize the health situation of migrants according to a Public Health Service study covering 15 States in 1938 (1). The findings closely parallel those of a Colorado study in 1950 (2):

"Migrant families were large, averaging 5,7 persons.

"About half the families lived in one room.

"Only one-third could be sure their water supply was safe. For 13 percent it was obviously unsafe.

"Most families used 'pit toilets,' of which less than 1 in 4 would have passed elementary health inspection."

A Colorado physician remarked: "We know that communicable diseases are present among the migrants. The fatalistic acceptance of the situation, plus their poverty, makes the problem of medical care a critical one. Tuberculosis, enteritis, smallpox, typhoid fever, dysentery and venereal diseases have been more often detected by accident or search by public health officials than by patients voluntarily seeking medical assistance . . ."

The wages paid migrants may be relatively good—at least as high as those paid local workers at similar jobs. Annual earnings, however, are reduced by time lost from work as the result of bad weather, poor crops, time consumed by travel from one place to another, and the problem of getting to the right place at the right time. Even with off-farm work to supplement work on farms, continuous employment throughout the year is unusual. It occurs only when workers have been able to piece together a number of jobs to make a long period of employment.

In 1949, less than 10 percent of the farm migrants in the United States had a full 250 days of work during the year. The remaining 90 percent averaged only 101 days per year. When both farm and nonfarm work are combined, earnings per worker averaged $514, excluding the earnings of children under 14. Annual family earnings are estimated at between $1,200 and $1,500 with two or more family members contributing to family income.

Average hourly earnings for all hired farm workers—including nonmigrants as well as migrants—have ranged from 24 to 44 percent of factory workers' earnings in recent years. Noncash perquisites—housing, garden space, and other items furnished by the farm operator—raise the annual cash earnings of regular hired farm workers by about 11 percent. For seasonal workers the value of noncash perquisites is only 7 percent of annual cash earnings.

Health, Housing, and Medical Care

Disabling illness rates for interstate family transients, according to the Public Health Service study in 1938 (*1*), were nearly twice those for residents of moderate or comfortable economic status and 1½ times the rates for residents of low economic status. Rates for epidemic and digestive diseases and for accidents were about twice as high among transient families as among residents.

Recent studies and reports confirm the findings of earlier studies indicating that the health level of migrants is below that of permanent residents of a community. Fresno County, Calif., prevalence of diarrheal disease among children observed in farm labor camps during July-December 1950 were significantly higher than for children observed in housing projects and at child health conferences (*7*, *8*).

The infant mortality rate among Colorado migrants was nearly twice that for the State according to the 1950 study (*2*). More than a third of births to migrants in the 5 years 1946–50 were not attended by a physician. Only 42 percent of the persons surveyed had had smallpox vaccination. Only 10 to 20 percent had had diphtheria, whooping cough, or tetanus immunization.

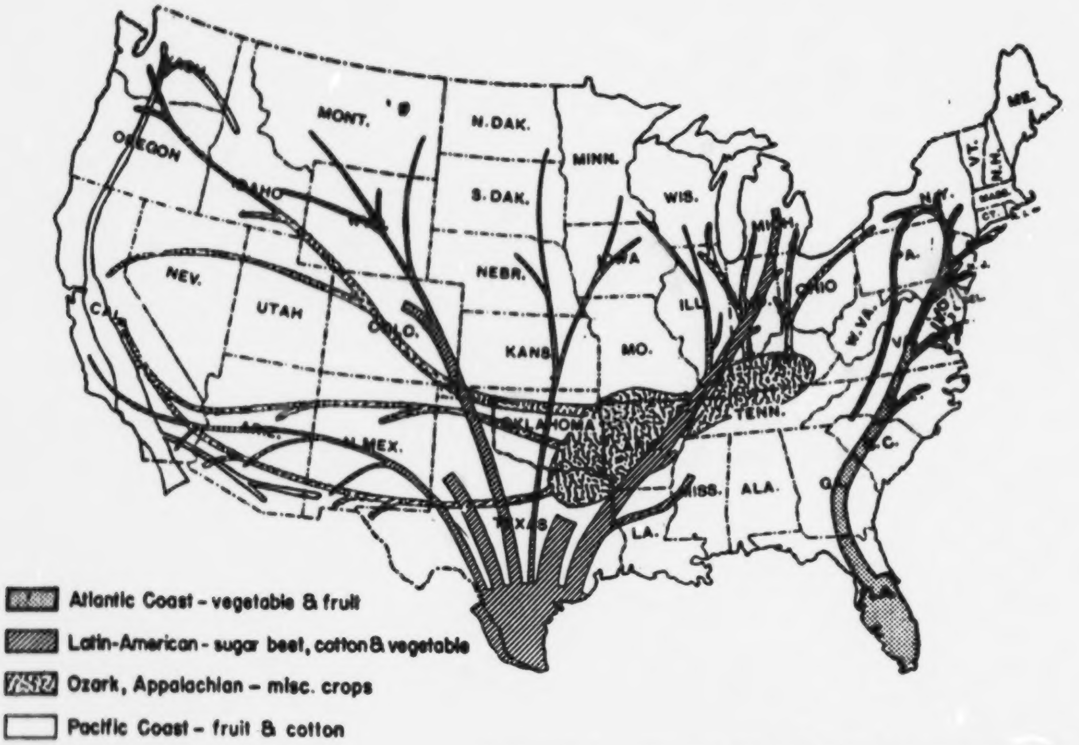
Nutritional deficiencies are common. The diets of migratory families are affected by low income and by lack of adequate cooking facilities, facilities for food storage, or time for food preparation, as well as by lack of understanding of nutrition requirements. A physician testifying before the President's Commission on Migratory Labor in 1950 reported dietary deficiency diseases such as pellagra among migrant workers as well as "ordinary starvation" (*6*). The Colorado study (*2*) commented on the "poverty diet" of the families surveyed in 1950.

Housing and Work Hazards

A number of States have laws or regulations which apply to all labor camps or to migrant camps specifically. In some, enforcement is not adequate. In other States, laws and regulations are lacking. According to a labor department official in one State: ". . . we have migrant workers living . . . in tents with no floors, on canal banks without any proper sanitation . . ." (*6*). A health officer in another stated: "Workers . . . crowd into shacks, tents, trailers, and similar quarters. Adequate and safe water supplies, toilets, bathing facilities, and proper sewage and refuse disposal are seldom provided . . ." (*6*).

However, some employers insist that poor housing conditions are not always their fault, and that housing which meets an approved standard is sometimes misused by the workers who occupy it.

The living conditions of migratory workers frequently lead to recurrent digestive disturbances and to the spread of respiratory and other infections. In addition, the migrant shares with other farm workers exposure to the occupational risks of agricultural employment—accidents, chemical poisonings, skin disorders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ALA.
TEXAS
LA.
ME.
VT.
N.H.
MASS.
CT.
N.Y.
PA.
Atlantic Coast - vegetable & fruit
Latin-American - sugar beet, cotton & vegetable
Ozark, Appalachian - misc. crops
Pacific Coast - fruit & cotton

Source: U. S. Department of Labor, Bureau of Labor Standards.

Travel patterns of seasonal migratory agricultural workers. The map shows the northward migratory movement. This is reversed as the crop season ends in the northern States and the workers drift back to home base—for many of them, southern California, Texas, and Florida.

from working with citrus fruit, and other hazards (*9*).

Medical Care

Except in extreme emergency, migrants are usually without regular medical services. An employer sometimes assumes responsibility for medical care for his workers. In rare cases workers are covered by insurance. Emergency hospitalization is sometimes financed by local welfare departments.

The 1938 study (*1*) reported: "The data presented on the cost of public hospitalization now being supplied to transients in general hospitals seem to show that an enormous load from this cause is being carried by some communities, in spite of the fact that transients generally receive considerably less medical care and hospitalization than do residents."

In 1950 one Colorado county spent nearly $5,000 for hospital care for 19 migrant families. Another reported spending $65,000 for tuberculosis patients during the previous 5 years. Between 50 and 60 percent of the patients were from "the substandard slum type of housing in which Spanish-American agricultural workers live." In no other Colorado county was comparable assistance to migrants reported (*2*).

The combination of poor diet, poor living conditions, and lack of medical care tends to aggravate any disability a migrant may have. This fact was commented upon in 1938: "Living in a camp . . . and other temporary quarters, lacking even facilities for self-medication or continuous rest in a comfortable bed, a disabled transient who cannot secure medical attention not only is subjected to a more miserable experience than is a resident ill of the same condition but he is also much more likely to have serious complications . . ." (*1*).

A handicap that is likely to affect the migrant more acutely, although shared with other rural residents, is the lack of physicians, nurses, and other health personnel in rural areas compared with urban places.

The interrelatedness of health, education, and welfare problems of migrants is illustrated by recent statements of State school officers (*10*). When asked the reasons migrant children were not in school, they often referred to problems of health—either real or based on suspicions of the community that the migrant child might be a disease carrier as the result of his living conditions.

Governmental Responsibilities

Responsibility for eliminating the problems which arise because of migrant labor and meeting the needs of the migrants is widely diffused through national, State, and local governments and agencies. In the Federal Government, for example, the Department of Justice, through its Immigration and Naturalization Service, is responsible for control of wetbacks. The Departments of Justice and Labor share responsibility for the legal importation of Mexican workers, with the Public Health Service assuming responsibility for health examinations. Other responsibilities of the Department of Labor include aiding "workers to find jobs and employers to find workers," and enforcing the Federal child labor law. The Department recognizes child labor in agriculture as a major problem in enforcement of this law.

The Bureau of Indian Affairs in the Department of the Interior has a concern for migrants to the extent that reservation Indians become part of the migratory labor force for part of each year. The Department of Agriculture makes studies of farm migrants as part of its investigations of the farm population and farm manpower. In some cases its educational services are extended to migrants through the Agricultural Extension Service.

The Department of Health, Education, and Welfare has varied responsibilities under programs to serve all eligible persons, in some cases the entire community. Such programs include those of the Children's Bureau, the Office of Education, the Bureau of Public Assistance, the Office of Vocational Rehabilitation, and the Public Health Service.

This résumé of Federal responsibility is, of course, incomplete, but it serves to illustrate the scattering of interest and concern for the welfare of migrants that is generally found in State and local governments and among voluntary agencies as well. With few exceptions, programs are designed to serve a permanent community and are ineffective in reaching migrants. Many of the reasons for their ineffectiveness have already been referred to—residence requirements; inadequate facilities, staff, and funds; language barriers; generally inadequate means for informing migrants of the services available or for informing agencies of migrants' needs; and other obstacles. Moreover, programs designed for a fixed population often must be modified to meet the needs of a population "on the move."

A further problem for the migrant in obtaining community services is the attitude of residents in many areas, which is usually reflected at least in some degree by local official and voluntary groups. Although he may be greatly needed by the community for its own economic welfare, he is unlikely to be accepted as part of the community while he is there. Near the Mexican border local residents may shrug off responsibility, looking at the shacks across the border and saying of their own Spanish-Americans, "They never had it so good in Mexico." And in States farther north people may say, "These people live in shacks and hovels in Mexico and Texas. Why should we improve their conditions here?"

Local and State Programs

Where such attitudes do not exist or have been largely overcome, significant changes have occurred. Hollandale, Minn., for example—a community of less than 400—has a continuing program to get the children of 800 migrant families into schools while they are in the area. The Waupun, Wis., Community Council on Human Relations has tried to integrate the migrant workers into the community by holding "family nights" for both migrants and local residents and by welcoming the migrants into local churches.

The New York State Department of Labor requires anyone bringing in 10 [illegible] more migrants from outside the State to register. Under this requirement, 820 migrant camp properties came under health department supervision during 1952. An average of 8.2 inspections were made for each property under supervision and many improvements were reported.

New York's Interdepartmental Committee on Farm and Food Processing Labor involves 9 State agencies in efforts to plan and work together. As part of this coordinated effort, the State health department participates in providing nursing services for migrant families, supplementing local services as necessary by supplying nurses from the State staff. Before the peak season in an area, conferences are held by the public health nurses, their supervisors, and camp operators and owners to review the services available, make an estimate of expected health needs of the migrants coming in, and plan to meet these needs.

State and local programs in other areas also provide needed services for migrants. Taken altogether, however, these programs are few and scattered, important chiefly as local demonstrations. Local officials trying to stretch services to meet the needs of migrants comment: "We can't do a 12-months' job in the short time the migrants are here." How to provide continuity of services as families move from place to place is a question they feel demands solution.

Reports from Palm Beach County, Fla., illustrate the problems involved in some of the local efforts. In one labor camp in the county, school enrollment ranged from 88 in September to 314 in May. In all white schools of the county exclusive of those in the main population center, enrollment increased by more than 2,000. The increase in the Negro schools was a little less than 2,000. If all children had been required to attend, the limited classrooms could not have held them.

The Palm Beach County Health Department finds it equally difficult to meet the needs of 20,000 workers and their families coming in each year. The efforts they make may be at the expense of programs for permanent residents. And the same migrants with the same problems are likely to be back on their doorstep year after year with little evidence that they have had care while they traveled in other States.

Recommendations by Various Groups

For the last half century, local, State, and national groups have been concerned about ways to improve the living and working conditions of migrants. Recurring recommendations of various commissions and conferences give evidence of this concern. The Country Life Commission in 1909 recommended employment on an annual basis and good housing. The Tolan Committee report in 1941 recognized the need for States of heavy in-migration to adopt laws establishing minimum conditions of health, sanitation, and housing on farms employing migratory agricultural labor (*11*), and so on, to the Federal Interagency Committee on Migratory Labor's report in 1947 (*12*), the report of the President's Commission on Migratory Labor published in 1951 (*3*), and the hearings on migratory labor in 1952 (*6*).

Out of the deliberations of such groups certain general principles and recommendations have evolved:

1. A program for migrants should be developed in terms of meeting their needs as human beings—not just to meet an emergency.
2. The health problems of migrants involve need for protecting the communities where they work temporarily as well as for protecting the migrants themselves.
3. The eventual goal should be to give as many migrants as possible roots in a local community where they can make their own place, gain community acceptance, and become eligible for the rights and benefits available to other citizens.
4. Services for migrants should be developed in a way that will integrate them into rather than separate them from the rest of the population.

Services must be adapted to the special needs of migrants, however, with recognition of their differences from local community residents in background, attitude, and behavior; with establishment of stationary services at major points of labor concentration and mobile services as needed; and with arrangements for continuity of services as migrants travel from one place to another.

Special measures should not be set up to meet a need that can be met through an existing program. The interest and activities of local, State, and interstate official and voluntary agencies should be encouraged and built upon as fully as possible.

5. Existing housing, health, and other standards, and laws and regulations applicable to migrants need to be applied to their situation; if necessary, these should be modified to assure the migrant the same protection and benefits available to other citizens.

6. Methods need to be developed whereby health services of high quality—both preventive and curative—can be distributed effectively and economically throughout rural United States.

Summary

Peaks of demand for agricultural workers create peaks of need for health services in many communities in many States. Some of these communities do not have public health and medical care facilities and personnel sufficient to meet their own needs, and even those which are well supplied have difficulty in meeting the greatly increased needs presented by migrant workers and their families for a few weeks or months each year. Also complicating the problem of matching needs with services in many situations are such facts as nonacceptance of these families by the community, ineligibility of nonresidents for services of various types, and ignorance of migrants as to where to seek help.

Migrants present the gamut of needs for health, education, and welfare services—needs which are intensified by their economic and educational status and by the fact of their migrancy. Challenges to official and voluntary agencies lie in finding ways to coordinate required services locally and to make these services continuous as migrants move from place to place. Some States have made considerable progress in meeting the first of these challenges. Interstate cooperation will be required to meet the second. At stake are the health and welfare of more than a million people who make a vital contribution to our national economy as well as the health and welfare of the communities through which they move.

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BEST COPY AVAILABLE

The Farmworker Association of Central Florida, Inc.
La Asociación Campesina
Asosiyasyon Travayè Latè

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(407) 886-5151

106 N. Center Street ☐
P. O. Box 496
Pierson, Florida 32080
(904) 749-9826

Linda Fisher
Assistant Administrator
Environmental Protection Agency
401 M Street, S.W.
Washington, D.C. 20460

also sent to

Mr. Bob Williams
Secretary
H-RS
1317 Winewood Blvd
Tallahassee, FL 32399-0700

October 7, 1992

Dear Ms. Fisher:

On Monday, September 28,1992, the Farmworker Association of Central Florida,Inc. a multi-racial, multi-ethnic organization of over 4,000 farmworkers, forwarded to your office a list of demands related to the farmworker community's exposure to BENLATE.

To date, we have received no written nor verbal response from your organization. We have great difficulty understanding your total lack of response. Is there no accountability to us as potential victims from BENLATE use from your organization? Are we, who harvest the food that covers the tables of our nation, and cut the flowers and ferns as well as the green plants and trees that decorate our homes, and our health of little importance to your organization?

Our people have signed the enclosed petitions to help you understand our outrage at this situation and once again to request a response before we take this issue to a more public forum.

Therefore, the Farmworker Association of Central Florida is requesting a face-to-face meeting with you in our Central Florida Office to address these demands. We ask you to respond no later than Tuesday, October 13, 1992.

If we do not receive a response to this our second communication, we will have to take this issue to a more public forum to insure our protection and that of our families. You may fax us a response at the following number (407) 884-5200. We await your response.

Sincerely,

Tirso Moreno (ac)

Tirso Moreno
General Coordinator

PETITION

We the undersigned are demanding that the Environmental Protection Agency (EPA) and the State of Florida's Department of Health and Human Services take the following actions :

1. That the continued use of all forms of BENLATE be prohibited by EPA until the effect of this fungicide on the health of farmworkers is determined.

2. That EPA do an epidemilogical study to determine if Farmworkers are experiencing problems similar and/or different than those described and reported by growers in relation to BENLATE exposure and further engage in a study to identify those chemicals that have caused human and crop damages and possible continued contamination of the workplace due to BENLATE use.

3. That a state-wide master list of growers using any form of BENLATE be complied from application records filed with the state and that this list be accessible to farmworkers and farmworker organizations now.

4. That a state sponsored survey of all workers and their families who were exposed to BENLATE, as identified from state application records, be conducted immediately.

5. That legislators and the present state government include farmworkers under the protection of the "RIGHT TO KNOW LAW" of the state of Florida.

6. That free health testing for farmworkers and family members be provided at public health clinics and /or by means of mobile units.

7. That health personnel be mandated to inform workers of their test results so that all workers and their families can receive appropriate care.

8. That EPA do a study to investigate the contamination of the work place due to the present and past use of BENLATE within Florida's agricultural industry.

NAME ADDRESS

The Farmworker Association of Central Florida, Inc.
La Asociación Campesina
Asosiyasyon Travayè Latè

815 South Park Avenue ☐
Apopka, Florida 32703
(407) 886-5151

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PRESS STATEMENT

THE FARMWORKER ASSOCIATION OF CENTRAL FLORIDA, A MULTI-RACIAL, MULTI-ETHNIC MEMBERSHIP ORGANIZATION OF OVER 4,000 FARMWORKERS, IS HOLDING THIS PRESS CONFERENCE TODAY TO ADDRESS FARMWORKERS' EXPOSURE TO THE PESTICIDE, BENLATE; AND TO PRESENT PUBLICALLY OUR DEMANDS CONCERNING THE POTENTIAL HEALTH HAZARDS TO WHICH WE AND OUR FAMILIES MAY HAVE BEEN EXPOSED AND APPROPRIATE ACTIONS THAT NEED TO BE TAKEN.

MEDIA COVERAGE AND THE DEPARTMENT OF HEALTH AND REHABILITATIVE SERVICES' STUDY TO DATE HAVE HIGHLIGHTED THE SERIOUS HEALTH PROBLEMS EXPERIENCED BY GROWERS IN RELATION TO EXPOSURE TO BENLATE. TODAY, ON BEHALF OF THE THOUSANDS OF FARMWORKERS EMPLOYED IN AGRICULTURE, WE ASK:

> **WHY WERE WE NOT INFORMED OF THE POTENTIAL HEALTH HAZARD OF BENLATE?**

EVEN AS WE SPEAK TODAY, NO STATE-WIDE EFFORT HAS BEEN MADE TO NOTIFY FARMWORKERS NOR CALL THEM IN FOR TESTING? WE ASK:

> **WHO DECIDED TO EXCLUDE US?**
>
> **ARE OUR LIVES AND THOSE OF OUR FAMILIES NOT OF EQUAL VALUE?**

THE CONTINUED DELAY IN INFORMING US, MAKES OUR RISK MORE CRITICAL.

> **WHY HAVE WE NOT BEEN TOLD OF POSSIBLE MISCARRIAGES, TESTICULAR CANCER, NOSE BLEEDS, AND OTHER SEVERE HEALTH PROBLEMS?**
>
> **ARE WE LABORERS NOT PRIME CANDIDATES FOR EXPOSURE?**

GIVEN THIS REALITY, WE, THE FARMWORKER ASSOCIATION OF CENTRAL FLORIDA, WANT ALL FARMWORKERS, OUR FAMILIES, AS WELL AS THE PUBLIC AT LARGE TO UNDERSTAND THE RISKS FROM BEING EXPOSED TO BENLATE.

FURTHER, WE PRESENT THE FOLLOWING DEMANDS, TO THOSE RESPONSIBLE GOVERNMENTAL AND ENVIRONMENTAL AUTHORITIES, FOR ACTION.

1) FIRST AND FOREMOST, WE DEMAND THAT CONTINUED USE OF ALL FORMS OF BENLATE BE PROHIBITED BY EPA, UNTIL THE EFFECT OF BENLATE ON THE HEALTH OF FARMWORKERS AND OUR FAMILIES IS DETERMINED.

SIMULTANEOUSLY, WITH THE PROHIBITION OF THE USE OF BENLATE, WE DEMAND THAT ACTION BE TAKEN IN THE FOLLOWING PRIORITY AREAS:

2) PROVISION OF INFORMATION

a) that a state-wide master list of growers using **BENLATE** be compiled from application records filed with the State and further that this list be publicized to farmworkers, farmworker organizations and health personnel so that possible **BENLATE** exposure can be known.

b) that HRS set up a mechanism, in collaboration with farmworker organizations, to inform all farmworkers and our families of possible health risks from the exposure to **BENLATE**. Possible avenues to accomplish this would be: a multi-lingual toll-free number to alert workers to symptoms, testing sites state-wide, and multi-lingual TV and Radio spots with the above information.

c) that legislators and the present state government be challenged to include farmworkers under the protection of the **"RIGHT-TO-KNOW"** law.

d) that the state insure that public and private health providers and clinics submit monthly reports on the identification of possible **BENLATE-related** problems to HRS or some other identified state department and that farmworker organizations have access to this information.

3) INITIATION OF RESEARCH

a) that the recommended EPA study on **BENLATE** include farmworkers and our families, our health problems, identification of the chemicals that have caused the plant and human damage, the continued contamination of the workplace due to the present and past use of **BENLATE** on crops.

b) that no State agency or University who has received funding from the DUPONT COMPANY, who manufactured **BENLATE**, be involved in the EPA or State studies done on the **BENLATE** health effects.

c) that a state-sponsored survey of all workers who were exposed to **BENLATE**, as identified from the state application records, be conducted.

4) PROVISION OF MEDICAL ASSISTANCE AND SUPPORT

a) that HRS insure that health personnel are alerted to the possible health problems stemming from **BENLATE**, the type of testing needed, and the methods of reporting findings.

b) that free health testing for farmworkers, our families and others affected be provided at public health centers/clinics frequented by farmworkers.

c) that the state testing sites be accessible to farmworkers and our families, i.e. be located in our neighborhoods or be mobile units rather than located at medical centers at distances from our communities.

d) that a mechanism be established for treating on-going health problems of farmworkers and our families which are related to **BENLATE** exposure.

e) that health personnel involved be mandated to inform farmworkers of our test results so that we can know our health condition and receive appropriate care.

Our demands are being forwarded to Governor Chiles, officers of the State legislature, Florida's Department of Health and Rehabilitative Services (HRS), the Environmental Protection Agency (EPA), Florida's Department of Agriculture, Occupational Safety and Health Administration (OSHA), the Governor's Advisory Council on Farmworker Affairs, the Florida State Commission on Hispanic Affairs, the National Institute of Occupational Safety and Health, Florida Pesticide Review Council, as well as major newspapers, television and radio stations.

We are asking that these demands be responded to by HRS within five working days. We ask this since HRS was the agency responsible for the investigation of the complaints of growers related to **BENLATE**.

The Farmworker Association of Central Florida asks all concerned citizens to call Mr. Bob Williams, Secretary of the Department of Health and Rehabilitative Services at (904) 488-7721, and demand with us that these actions be taken in justice to the well being of all Florida residents involved in the **BENLATE** exposure.

For further information, contact Tirso Moreno, at (407) 886-5151 or Roman Rodriguez at (904) 749-9826.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
THE ADMINISTRATOR

STATEMENT ON WORKER PROTECTION STANDARDS

William K. Reilly
Administrator, U.S. Environmental Protection Agency
August 13, 1992

I am pleased to announce that EPA's long effort to strengthen the protections afforded agricultural workers from the risks of pesticides has borne fruit. Today I have signed a major revision to the Worker Protection Standard for Agricultural Pesticides, which will require workplace practices that reduce the risks of exposure to pesticides. The final rule will apply to workers and pesticide handlers in nurseries, forests and greenhouses, farms, and employees who handle pesticides -- about 3.9 million people nationwide. This Standard will be directly enforceable under the Federal Insecticide, Fungicide, and Rodenticide Act.

The new rule is significant in several ways:

First, the labeling of all agricultural pesticides will be extensively revised to convey much stronger worker protection requirements -- including keeping workers out of recently treated areas and requiring use of equipment to protect handlers of pesticides and others.

Next, agricultural employers covered by this rule will be expected to follow new practices to protect their employees and, in some cases, themselves. These practices include safety training, warnings about pesticide treatments, provisions on washing facilities, and maintenance of protective equipment. We believe that many responsible employers may already provide some or all of these protections to their workers. We are persuaded, however, that such practices must be adopted more widely. We plan a wide variety of measures to explain the new requirements and to encourage and support employers' efforts to comply.

A final note: a significant fraction of our agricultural work force suffers disadvantages that most of us never face. When this rule is fully implemented, agricultural workers throughout America will not only benefit from specific work practices to reduce harm, but will have far greater opportunities to help protect their families and themselves.

These workers will know, often for the first time, when they are working in the presence of toxic pesticides, what risks these pesticides present, and they will also get basic safety instruction.

The proposed Worker Protection Standard was published in 1988. The hundreds of comments we received since that time were vital to our effort to craft a regulation that provides a safe work place for the agricultural work force while avoiding unnecessary costs on American agriculture. Striking such a balance is often difficult. This rule was certainly no exception. I believe, however, that the final product successfully achieves worker protection without imposing undue costs. While all of us would have preferred to have put these additional protections into place more quickly, I am proud of this product.

This rule, then, is a major strengthening of existing protections for agricultural workers. I believe that its implementation will significantly reduce poisonings among the agricultural work force.

8/13/92

WORKER PROTECTION STANDARD FOR AGRICULTURAL PESTICIDES

SUMMARY OF PROVISIONS

The Environmental Protection Agency has revised its Worker Protection Standard (WPS) dealing with the protection of agricultural workers from pesticide exposure (40 CFR Part 170). The new Worker Protection Standard contains requirements designed to reduce the risks of illness or injury resulting from pesticide handlers' and agricultural workers' occupational exposures and agricultural workers' and other persons' accidental exposures to pesticides used in the production of agricultural plants on farms, nurseries, greenhouses and forests. The following is a summary of the major provisions of this regulation.

A. GENERAL

SCOPE AND APPLICABILITY

--Pesticide uses included in the scope are those involved in the production of agricultural plants on farms, forests, nurseries, and greenhouses.

--Exceptions:

- Government-sponsored public pest control;
- Livestock uses;
- Habitations, gardens, lawns, etc.;
- Pasture/rangeland, rights-of-way and structures;
- Vertebrate pests;
- Attractants/repellents in traps;
- Post-harvest;
- Research uses of unregistered pesticides.

--Exemptions: Owner and immediate family exempt from generic provisions, principally training, notification, decontamination, and emergency assistance. They must comply with pesticide-specific requirements, such as personal protective equipment (PPE) and restricted-entry intervals (REI's).

RESPONSIBILITY

--Employers have the responsibility to make sure the protections of this standard are provided to agricultural workers and pesticide handlers.

--Employers may not prevent or discourage any agricultural worker or pesticide handler from complying with the standard and may not take retaliatory action against handlers or workers who attempt to comply.

KEY DEFINITIONS

--**Agricultural employer**:

- Hires or contracts for the services of agricultural workers OR
- Owns or is responsible for the management and condition of an agricultural establishment that uses such workers.

--**Commercial pesticide handling establishment** is any establishment other than an agricultural establishment (farm, forest, nursery, or greenhouse) that:

- Employs handlers to apply pesticides on agricultural establishments OR
- Employs persons to perform tasks as crop advisors on agricultural establishments.

--**Handler**:

- Mixes, loads, transfers, or applies pesticides;
- Disposes of pesticides or unrinsed containers;
- Handles opened containers;
- Flags;
- Cleans, adjusts, handles, or repairs contaminated equipment;
- Assists with application;
- Enters enclosed area after use of airborne pesticide before PEL or ventilation criteria are met;
- Enters area treated with soil fumigant to adjust or remove tarps;
- Performs tasks as a crop advisor during application or an REI.

--**Worker**: performs tasks (other than handler tasks) related to the production of agricultural plants on an agricultural establishment.

B. PROTECTIONS FOR ALL EMPLOYEES

Employers of pesticide handlers and agricultural workers must make sure the following protections are provided to workers/handlers in their employ.

CENTRALLY LOCATED INFORMATION

--If workers or handlers are employed on an agricultural establishment, the employer must establish a central location to:

- Display a poster containing WPS-specified information;
- List the location of the nearest emergency medical facility;
- Post information about each pesticide application on the establishment, including:
    - location and description of treated area;
    - product name, EPA registration number and active ingredient(s);
    - time and date of the application; and
    - restricted entry interval for the pesticide.

--The employer must also:

- Keep information about applications posted until at least 30 days after the REI expires; and
- Inform workers/handlers where the poster is located and allow them access.

EMERGENCY ASSISTANCE

--In the case of a suspected pesticide poisoning, the employer must make available prompt transportation to an appropriate medical facility.

--The employer must also provide the worker or handler or the treating medical personnel with information from the pesticide labeling and information about how the suspected exposure occurred.

DECONTAMINATION

--Employers must provide workers with a decontamination site while the workers are performing permitted activities in a treated area where an REI is in effect or performing any activities in a treated area where an REI has expired within the past 30 days.

--Employers must provide pesticide handlers with a decontamination site while handlers are performing handling activities.

--Supplies for washing pesticides from the skin and eyes must be provided within 1/4 mile of all workers/handlers, including:

- Enough water for washing (Water must be of a quality and temperature that will not cause illness or injury when it contacts the skin or eyes or if it is swallowed);
- Enough soap and single-use towels; and
- Clean coverall (at handler sites).

--Eyeflush water must be made immediately available to handlers and early-entry workers if they are required to wear protective eyewear.

INFORMATION EXCHANGE

--An agricultural employer must be informed when a pesticide is to be applied on the agricultural establishment by a commercial handler and must be provided the information needed to be posted at the central location plus:

- Whether both oral warnings and treated area posting are required; and
- Any other protection requirements on the label for workers or other people.

--A commercial handler employer must be informed of entry restrictions for and the location/description of any areas on the agricultural establishment that the commercial handler may be in (or within 1/4 mile of) which may be treated with a pesticide or be under an REI while the commercial handler is on the establishment. The commercial handler employer must provide this information to the commercial handler.

C. PROTECTIONS FOR WORKERS

APPLICATION RESTRICTIONS

--The employer must keep workers other than trained and protected pesticide handlers out of an area being treated.

--Under some application conditions, employers must keep nursery or greenhouse workers out of locations that are near an area being treated.

ENTRY RESTRICTIONS

--If contact with pesticides is possible, the employer must keep workers from entering a treated area until the REI is over.

--Exceptions:

- Non-hand labor tasks can take place up to 1 hour/worker/day;
- Tasks can take place if necessary due to a declared agricultural emergency; and
- Additional exceptions can be requested of EPA.

--Employers must protect early-entry workers by making sure of the following:

- No entry for the first 4 hours following the end of the application and until any label-specified inhalation exposure level or the WPS ventilation criteria have been met;
- Workers informed about health effects and safety information from pesticide labeling;
- PPE provided, cleaned, and maintained for the worker;
- Worker wears and uses PPE correctly;
- Workers instructed how to put on, use, and remove the PPE and about the importance of washing thoroughly after removing PPE;
- Workers provided a clean place to put on and take off PPE and to store personal clothing;
- Action taken, if necessary, to prevent heat-related illness while wearing PPE;
- Soap, towels, and water provided when PPE is removed; and
- Make sure no contaminated PPE worn home or taken home.

TRAINING FOR WORKERS

--Unless already a certified applicator or a trained handler, each early-entry worker must be trained before performing permitted tasks in a treated area which remains under an REI.

--Unless already a certified applicator or trained handler, workers must be trained before their 6th day of entry into treated areas on an agricultural establishment within 30 days of the REI expiration. (Until about October, 1997, workers must be trained before their 16th day of such entry.)

--The training must include written or audiovisual materials and be presented in a manner the worker can understand, using nontechnical terms.

--The trainer must be a certified applicator, a trainer of certified applicators, someone who has completed an approved train-the-trainer course, or a trained handler.

--The training program must contain the general pesticide safety information specified in the WPS.

NOTICE OF APPLICATIONS

--On farms, nurseries, and forests, each worker who might enter a treated area or walk within 1/4 mile of a treated area during application or an REI must be warned orally or by posting warning signs at the treated area.

--In greenhouses, each worker who might enter a greenhouse during an application or an REI must be warned by posted warning signs at entrances to treated areas.

--Some pesticides will have a statement on the product labeling requiring both posting of warning signs and oral warnings to workers.

--The posted warning sign must:

- Include the words: "Pesticides/Pesticidas - Danger/Peligro - Keep Out/No Entre";
- Contain the WPS warning-sign symbol (a stern face and an upraised hand);
- Meet size and color requirements; and
- Be visible at all usual entrances to the treated area.

--The oral warning must:

- Give location and description of treated area;
- State the time during which entry is restricted; and
- Instruct workers not to enter the treated area until the REI is over.

D. PROTECTIONS FOR HANDLERS

APPLICATION RESTRICTIONS

--The employer and the handler must make sure that no pesticide is applied so as to contact, either directly or through drift, any person other than a trained and protected handler.

--The employer must make sure that any handler who is handling a pesticide with a skull and crossbones symbol on the label is monitored visually or by voice contact at least every 2 hours.

--The employer must make sure that any handler who is handling a fumigant in a greenhouse maintains continuous visual or voice contact with another handler.

PERSONAL PROTECTIVE EQUIPMENT

--When personal protective equipment is required by the product labeling for the handling activity. The employer must:

- Provide the PPE to each pesticide handler;
- Clean and maintain the PPE correctly;
- Make sure that each handler wears and uses the PPE correctly;
- Provide each handler a clean place to put on and take off PPE and to store personal clothing;
- Take action, if necessary, to prevent heat-related illness while PPE is being worn;
- Provide soap, towels, and water to each handler at the end of the handling activity when PPE is removed; and
- Not allow any handler to wear home or take home PPE worn for handling activities.

KNOWLEDGE OF PESTICIDE LABELING

--The employer must make sure that each handler has either read the pesticide labeling or been informed of the information on the labeling.

--The pesticide product labeling must be accessible to the handler during the handling activity.

SAFE OPERATION OF EQUIPMENT

--The employer must make sure that each handler is instructed in the safe operation of handling equipment.

--The employer must make sure that all handling equipment is inspected and in good operating condition before each use.

TRAINING FOR HANDLERS

--Unless already a certified applicator or trained to use restricted-use pesticides, handlers must be trained before performing handler tasks.

--The training must include written or audiovisual materials and be presented in a manner the handler can understand.

--The trainer must be a certified applicator, a trainer of certified applicators, or someone who has completed an approved train-the-trainer course.

--The training program must contain the general pesticide safety and correct handling practice information specified in the WPS.

CLEANING AND MAINTAINING PPE

--The employer must make sure that anyone cleaning PPE is informed:

- That the PPE may have pesticides on it;
- Of the potentially harmful effects of pesticides; and
- Of the correct ways to handle and clean PPE.

--The employer must make sure that:

- PPE is inspected and repaired before each use;
- PPE is cleaned according to manufacturers' instructions or in detergent and hot water;
- PPE that cannot be cleaned is disposed of;
- Clothing drenched with concentrates of Danger or Warning pesticide are disposed of;
- PPE is kept, washed, and stored separately from personal clothing;
- Clean PPE is dried appropriately; and
- Respirator filters, cartridges, and canisters are replaced as often as required.

364

PPE SUBSTITUTIONS AND EXCEPTIONS

--Substitutions and exceptions to PPE are permitted when engineering controls are used.

--Pilots in open cockpits are exempted from any chemical-resistant footwear requirement; a helmet may be substituted for chemical-resistant headgear and a visor may be substituted for protective eyewear.

--Pilots in closed cockpits are exempted from all PPE requirements; long-sleeved shirt, long pants, shoes and socks are required.

--Handlers using closed systems for mixing and loading are exempted from all PPE except chemical-resistant gloves and apron; long-sleeved shirt, long pants, shoes, and socks are required. If the closed system is pressurized, protective eyewear is also required.

--Handlers using enclosed cabs are exempted from all PPE except for any respirator requirement; long-sleeved shirt, long pants, shoes, and socks are required. Respirators are waived if the enclosed cab offers respiratory protection equal or greater to the type of respirator specified.

--Handlers or early entry workers working with plants with sharp thorns may wear leather gloves over chemical-resistant glove liners.

--Handlers or early entry workers working in rough terrain may wear leather boots instead of chemical-resistant footwear.

E. REQUESTS FOR EXCEPTION TO REI

--Affected parties may request that EPA grant an exception to the prohibition of routine hand labor tasks during an REI.

--Exception request must include specified information about the need, nature, feasibility, and basis for the request.

--EPA will issue a notice that a request has been received and allow at least 30 days for public comment.

--EPA will publish a notice of its decision.

--If no decision is issued by 9 months after close of comment period, applicants may presume the request is denied, unless the deadline is extended due to the complexity of the request or the number of requests being reviewed.

--If a request is granted, employers must provide the early-entry workers with the protections required by the WPS for other early entry.

--EPA may withdraw exceptions to REI's if information indicates that the health risks to workers are unacceptable or if it is no longer needed. Affected parties may request a hearing when an exception is withdrawn.

--EPA is issuing a notice that it is considering granting an exception to REI's for the cut flower and cut fern industry.

WORKER PROTECTION STANDARD FOR AGRICULTURAL PESTICIDES

SUMMARY OF PROVISIONS--PESTICIDE LABELING CHANGES

The Environmental Protection Agency has revised 40 CFR Part 156 to prescribe Worker Protection Standard (WPS) statements that must be placed on pesticide product labeling and to establish interim restricted-entry intervals and personal protective equipment requirements.

COMPLIANCE DATES

--None of the provisions of the Worker Protection Standard are enforceable until specific worker protection requirements and statements referring to the WPS appear on pesticide labeling. Pesticides with the revised labeling may not be released for sale before about April 15, 1993.

--As soon as a product with revised labeling is used, the users must follow the specific product labeling requirements for PPE, application restrictions, restricted entry intervals and, if present, the requirement for both treated area posting and oral warnings.

--Users need not meet certain more generic requirements of the WPS until April 15, 1994. These include requirements for decontamination sites, training, cleaning and maintenance of PPE, emergency assistance, and displaying a pesticide safety poster and pesticide-specific information.

WPS REFERENCE STATEMENT

--The labeling of all affected agricultural pesticide products must include specific statements in an Agricultural-Use Requirements subsection near the beginning of the Directions For Use section. All product labeling must include standardized statements that reference the WPS and briefly list the major requirements of the WPS.

PROHIBITION STATEMENT

--All product labeling must include a statement prohibiting application of the product in a way that will contact workers or other persons directly or through drift.

STATE REQUIREMENTS

--All product labeling must include a statement advising users to contact their State pesticide agency for information about their State's pesticide requirements.

PRODUCT-TYPE IDENTIFICATION

--Any product that contains an organophosphate, n-methyl carbamate, or fumigant active ingredient must be identified as such on the label.

SPANISH LANGUAGE STATEMENT

--The label of any product in Toxicity Category I or II must have the signal word in Spanish and a sentence in Spanish directing users to have all labeling explained to them.

RESTRICTED-ENTRY INTERVALS (REI)

--All product labeling must include a statement prohibiting entry during the restricted-entry interval.

--All product labeling must specify a restricted entry interval(s). Minimum interim restricted entry intervals based on the acute toxicity of the active ingredient by the dermal, skin irritation and ocular routes of exposure are established.

--Previously established entry intervals will be retained if they are based on entry data that meets Agency guidelines. Any other previously established entry interval is "interim" and would only be retained if it is longer than the interim REI established by the WPS.

--A 48 hour REI is established for any product containing an active ingredient in Toxicity Category I (highly toxic). [The REI for organophosphates is extended to 72 hours if these products are applied outdoors in areas with less than 25 inches rainfall/year.]

--A 24 hour REI is established for any product containing an active ingredient in Toxicity Category II.

--A 12 hour REI is established for all other products.

NOTIFICATION TO WORKERS

--The labeling of any product containing an active ingredient that is in Toxicity Category I because of dermal toxicity or skin irritation potential and of any product that is a fumigant that may be applied in a greenhouse must have a statement requiring both posting of warning signs and oral warnings to workers.

PERSONAL PROTECTIVE EQUIPMENT

--All product labeling must specify required personal protective equipment (PPE). Minimum PPE and work clothing requirements for pesticide handlers and for early-entry workers are established. (Long-sleeved shirts, long pants, shoes, and socks are defined as work clothing and not PPE.)

--Minimum PPE requirements for handlers are based on the acute toxicity of the formulated pesticide product by dermal, ocular, and inhalation routes of entry.

- **Ocular:** Protective eyewear is required for Toxicity Category I and II products.

- **Inhalation:** A respirator is required for Toxicity I and II products. The labeling must specify whether the required respirator is a dust/mist filtering respirator, or organic-vapor-removing respirator with a dust/mist prefilter, or air-supplying respirator. Registrants must base this specification on the criteria in the WPS and in the guidance that will be issued to registrants.

- **Dermal:**

  --Chemical-resistant gloves are required for Toxicity I, II, and III products. The labeling must specify a particular type of chemical-resistant glove. Registrants must base this specification on the criteria in the WPS and in the guidance that will be issued to registrants.

  --Chemical-resistant footwear and socks are required for Toxicity I and II products; shoes and socks are required for all other products.

  --Coveralls worn over another layer of clothing are required for Toxicity I and II long-sleeved shirt and long pants are required for all other products.

- **Additional PPE** based on exposure pattern are specified:

  --Handlers and early entry workers with overhead exposure also must wear chemical-resistant headgear.

  --Mixers, loaders, and equipment cleaners also must wear a chemical-resistant apron.

- **Early Entry PPE** requirements are the same as the PPE required for applicators, except any respirator requirement is waived and coveralls and chemical-resistant (or waterproof) gloves are the minimum allowed attire for early entry workers.

WORKER PROTECTION STANDARD FOR AGRICULTURAL PESTICIDES

SUMMARY OF PROVISIONS--NOTICE OF PROPOSED RULEMAKING

HAZARD INFORMATION

The Environmental Protection Agency is issuing a notice of proposed rulemaking to add a provision to the newly revised Worker Protection Standard (WPS) for agricultural pesticides. It proposes to provide information to covered workers that is substantially equivalent to that required under the Hazard Communication Standard promulgated by the Occupational Safety and Health Administration (OSHA). This proposal would add a requirement that specific hazard information be made available to agricultural workers and pesticide handlers concerning the pesticides to which they are exposed. The hazard information would be in the form of fact sheets or Material Safety Data Sheets (MSDS's). The following is a summary of the major provisions of this regulation.

PROVIDING HAZARD INFORMATION

--The employer must provide hazard information to any worker who enters a pesticide-treated area on an agricultural establishment where, within the last 30 days a pesticide has been applied or a restricted-entry interval (REI) has been in effect.

-- The employer must provide hazard information to any handler of a pesticide that is being handled or that has been handled within the past 30 days.

--The employer must provide hazard information to any handler or worker who may be exposed to the pesticide during its normal conditions of use or in a foreseeable emergency.

--The information must be provided at a central location: accessible to workers and handlers during working hours and readily obtainable in an emergency.

--The information must be provided in written form within a reasonable amount of time, on request from the worker or handler, the worker's or handler's representative, or medical personnel treating the worker or handler.

FORMAT OF HAZARD INFORMATION

--Hazard information must be either:
- Material Safety Data Sheet for the product, or for each active and inert ingredient listed on the label of the product; or

- Fact sheet that has been prepared or approved by a State or Federal agency for the pesticide.

CONTENT OF FACT SHEETS

--Each fact sheet shall contain information, expressed in nontechnical terms, except for items specifically targeted towards medical personnel, such as antidotes or emergency treatment.

--Fact sheet information must be accurate and updated as necessary.

--The information shall include:
- Typical brand name(s) of the pesticide, and the chemical name and common name of the pesticide;
- Information on the physical characteristics of the pesticide;
- Information on the comparative toxicity of the pesticide, including acute, allergic, chronic, and delayed-onset effects;
- Information on any special protection needed in handling the product;
- Information on spill or leak cleanup procedures and disposal methods for excess chemical and for containers;
- The date the fact sheet was prepared or revised to its present form;
- The telephone number of the National Pesticide Telecommunication Network and the name, address, and telephone number of any responsible party who could provide more information about the product or ingredients or about emergency procedures;
- If certain information is not obtainable, the fact sheet shall so indicate.

8/13/92

FACT SHEET

WORKER PROTECTION STANDARD FOR AGRICULTURAL PESTICIDES

The Environmental Protection Agency (EPA) is issuing final revisions to its regulations governing the protection of workers from agricultural pesticides. These revised regulations expand the scope of the standard to include not only workers performing hand labor operations in fields treated with pesticides, but employees in forests, nurseries, and greenhouses, and employees who handle (mix, load, apply, etc.) pesticides for use in these locations. The regulations expand requirements for warnings about applications, use of personal protective equipment, and restrictions on entry to treated areas, and add new provisions for decontamination, emergency assistance, maintaining contact with handlers of highly toxic pesticides, and pesticide safety training. Pesticide registrants are required to add appropriate labeling statements referencing these regulations and specifying application restrictions, restricted-entry intervals (REI's), personal protective equipment (PPE), and notification to workers of pesticide applications. EPA has determined that its present regulations are inadequate to protect agricultural workers and pesticide handlers who are occupationally exposed to pesticides. The revised regulations are intended to reduce the risk of pesticide poisonings and injuries among agricultural workers and pesticide handlers through implementation of appropriate exposure reduction measures.

The provisions in the revised Worker Protection Standard are directed toward the working conditions of two types of employees:

- **pesticide handlers** -- those who handle agricultural pesticides (mix, load, apply, clean or repair equipment, act as flaggers, etc.), and
- **agricultural workers** -- those who perform tasks related to the cultivation and harvesting of plants on farms or in greenhouses, nurseries, or forests.

There are three types of provisions intended to:

(1) eliminate or reduce exposure to pesticides,

(2) mitigate exposures that occur, and

(3) inform employees about the hazards of pesticides.

1. Provisions to eliminate or reduce pesticide exposures -- This final rule limits pesticide exposures by establishing restricted-entry intervals (REI's) for all pesticide products which are used in the production of agricultural plants and for which REI's have not been set according to current standards. The REI is a period of time after application of a pesticide during which worker entry to the treated area is restricted.

- **Previously established REI's** -- will be retained if they are based on entry data that meet Agency guidelines. Any other previously established entry interval is considered to be "interim" and will be retained only if it is **longer** than the REI established by Part 170.

- **48-hour REI** -- is established for any product that is highly toxic because of dermal toxicity or skin or eye irritation. (The REI is extended to **72 hours** in arid areas if the product is an organophosphate and is applied outdoors.)

- **24-hour REI** -- is established for any product that is moderately toxic because of dermal toxicity or skin or eye irritation.

- **12-hour REI** -- is established for all other products.

Overall exposure to pesticides is reduced in this final rule by:

- prohibiting handlers from applying a pesticide in a way that will expose workers or other persons,

- excluding workers from areas being treated with pesticides,

- excluding workers from areas that remain under an REI, with narrow exceptions.

- protecting early-entry workers who are performing permitted activities in treated areas during an REI, including special instructions and duties related to correct use of PPE,

- notifying workers about treated areas so they can avoid inadvertent exposures, and

- protecting handlers during handling activities, including monitoring while handling highly toxic pesticides and duties related to correct use of PPE.

2. Provisions to mitigate exposure -- Exposure to pesticides is mitigated in this final rule by:

- **Decontamination supplies** -- providing handlers and workers an ample supply of water, soap, and towels for routine washing and emergency decontamination,
- **Emergency assistance** -- making transportation available to a medical care facility if an agricultural worker or handler may have been poisoned or injured by a pesticide, and providing information about the pesticide(s) to which the worker or handler may have been exposed.

3. Provisions to inform employees about pesticide hazards -- This final rule provides information about pesticide hazards through:

- **Pesticide safety training** -- requiring training for workers and handlers,
- **Pesticide safety poster** -- requiring the posting of a pesticide safety poster,
- **Access to labeling information** -- requiring that pesticide handlers and early-entry workers are informed of pesticide label safety information, and
- **Access to specific information** -- requiring a centrally located listing of pesticide treatments on the establishment.

United States
Environmental Protection
Agency

Office of Pesticide Programs
Washington, DC 20460

September 1992

FOR YOUR INFORMATION

Worker Protection Standard for Agricultural Pesticides

Key Features

The U.S. Environmental Protection Agency (EPA) has issued final regulations governing the protection of employees on farms, forests, nurseries, and greenhouses from occupational exposures to agricultural pesticides. The new Worker Protection Standard covers both workers in areas treated with pesticides, and employees who handle (mix, load, apply, etc.) pesticides for use in these areas.

EPA determined that its previous regulations were inadequate to protect agricultural workers and pesticide handlers who are occupationally exposed to pesticides. The revised regulations are intended to reduce the risk of pesticide poisonings and injuries among agricultural workers and pesticide handlers through appropriate exposure reduction measures.

The regulations expand the requirements for issuing warnings about pesticide applications, use of personal protective equipment, and restrictions on entry to treated areas. New requirements are added for decontamination, emergency assistance, maintaining contact with handlers of highly toxic pesticides, and pesticide safety training.

Pesticide registrants are required to add appropriate labeling statements referencing these regulations and specifying application restrictions and other requirements.

Affected Employees

The provisions in the revised Worker Protection Standard are directed toward the working conditions of two types of employees:

- **agricultural workers** -- those who perform tasks related to the cultivation and harvesting of plants on farms or in greenhouses, nurseries, or forests, and
- **pesticide handlers** -- those who handle agricultural pesticides (mix, load, apply, clean or repair equipment, act as flaggers, etc.).

WPS Provisions

The provisions of the new Worker Protection Standard are intended to:

(1) eliminate exposure to pesticides,

(2) mitigate exposures that occur, and

(3) inform employees about the hazards of pesticides.

1. Eliminate Pesticide Exposure

The final rule reduces pesticide exposure through several requirements:

- **Protection during applications** -- Handlers are prohibited from applying a pesticide in a way that will expose workers or other persons; workers are excluded from areas while they are being treated with pesticides.
- **Restricted-entry intervals (REIs)** -- REIs are established for all pesticides used in the production of agricultural plants, ranging from 12 to 72 hours depending on toxicity. Workers are excluded from areas under an REI, with only narrow exceptions.

- **Personal protective equipment (PPE)** -- the regulation mandates providing and maintaining PPE for handlers and early-entry workers.

- **Notification of workers** -- workers must be notified about treated areas so they can avoid inadvertent exposures.

2. Mitigate Pesticide Exposure

Exposure to pesticides is mitigated in the final rule through the following provisions:

- **Decontamination supplies** -- providing handlers and workers an ample supply of water, soap, and towels for routine washing and emergency decontamination,

- **Emergency assistance** -- making transportation available to a medical care facility if an agricultural worker or handler may have been poisoned or injured by a pesticide, and providing information about the pesticide(s) to which the worker or handler may have been exposed.

3. Inform Employees about Pesticide Hazards

The final rule provides information about pesticide hazards through the following requirements:

- **Pesticide safety training** -- requiring training for all workers and handlers,

- **Pesticide safety poster** -- requiring the posting of a pesticide safety poster,

- **Access to labeling information** -- requiring that pesticide handlers and early-entry workers are informed of pesticide label safety information, and

- **Access to specific information** -- requiring a centrally located listing of recent pesticide treatments on the establishment.

Implementation Schedule

The implementation schedule for the Worker Protection Standard is designed to implement the most crucial provisions as quickly as possible, and allow time for EPA and cooperating organizations to develop and distribute training and instructional materials.

Pesticide Users' Compliance Schedule

EPA is implementing the Worker Protection Standard for pesticide users in two phases:

- Product-specific requirements -- PPE, REI's, and the requirement on some products to both orally warn and post treated areas -- are enforceable when a pesticide with WPS labeling is used: **no sooner than April 21, 1993**.
- Generic WPS requirements -- training, decontamination, duties related to PPE, general notification, emergency assistance, etc. -- are enforceable when a pesticide with WPS labeling is used: **on or after April 15, 1994.**

Registrants' Implementation Schedule

EPA has established the following schedule for registrants to make the required alterations to their pesticide product labels:

- **No labeling with** the WPS-required statements may be sold or distributed **before April 21, 1993**. This 8-month period allows EPA to inform users about the meaning of the revised labeling.
- **No labeling without** the WPS-required statements may be sold or distributed **by registrants after April 21, 1994**.
- **No labeling without** the WPS-required statements may be sold or distributed **by anyone after October 23, 1995**.

United States
Environmental Protection
Agency

Office of Pesticide Programs
Washington, DC 20460

September 1992

FOR YOUR INFORMATION

Worker Protection Standard for Agricultural Pesticides

Implementation Plans

The U.S. Environmental Protection Agency (EPA) is developing a comprehensive plan for implementing the new Worker Protection Standard for agricultural pesticides. The regulation, issued in August 1992, protects employees on farms, forests, nurseries, and greenhouses from occupational exposures to agricultural pesticides. The regulations cover both workers in areas treated with pesticides, and employees who handle (mix, load, apply, etc.) pesticides. Implementation efforts are underway in the following specific areas:

Pesticide Label Alterations

Affected pesticide products must be labeled with statements requiring pesticide users to comply with the Worker Protection Standard (WPS). Other required pesticide label changes include changes in restricted-entry intervals (REIs), personal protective equipment (PPE), and special notification statements. These changes depend on the characteristics of individual pesticide products and require knowledge about the product's toxicity characteristics, uses, and formulation. The Agency estimates that approximately 8,000 product labels will have to be altered and approximately 800 registrants will be affected.

To facilitate implementing the labeling requirements, EPA is undertaking the following activities:

- Developing and distributing a detailed guidance document (PR Notice) to registrants.
- Providing registrant assistance.

Agricultural Employer Training

A critical goal in implementing the WPS is notifying affected pesticide users, particularly employers of agricultural workers and pesticide handlers, of the existence of the WPS and what they must do to comply with the new standard.

Key implementation strategies EPA is undertaking include:

- Developing a manual on how to comply with the WPS. The manual will explain to agricultural employers how to comply with the regulation without needing to read the actual regulatory language.
- Developing a pesticide safety poster that meets the criteria in the regulation.
- Developing a sign for posting in treated areas. The completed design has already been provided to organizations that will make the sign available commercially.
- Conducting workshops to train people about the WPS requirements so that they may, in turn, train agricultural employers to comply. EPA plans a series of workshops at EPA regional offices for State personnel and others.
- Providing WPS-assistance information by telephone and fact sheets.

- Establishing a mechanism for ordering all EPA-developed WPS training and instructional materials, including printed manuals, brochures, and audiovisual aids.

Worker and Handler Training

The WPS requires training for agricultural workers and pesticide handlers to help them understand the reasons for the required protective measures and to encourage them to become active participants in protecting themselves and others working nearby.

Key implementation efforts EPA is undertaking include:

- Developing training materials for agricultural workers and pesticide handlers that meet the requirements established by the WPS. The initial products will be training handbooks for workers and handlers. EPA also plans to develop slide sets, videotapes, and flip-charts to supplement the training handbooks.
- Conducting "train-the-trainer" workshops for people who will be training agricultural workers and pesticide handlers.
- Establishing a mechanism for verifying which workers and handlers have received WPS training.

Enforcement Inspector Training

A significant component of the Agency's implementation plan is offering training for State, territorial, and tribal enforcement inspectors. These officials will need in-depth knowledge of the requirements of the WPS in order to determine compliance and, when necessary, to initiate enforcement. In addition, these inspectors are expected to play a key role in WPS outreach. The inspectors will help to instruct agricultural employers, workers, and handlers as well as pesticide registrants on the requirements of the WPS and how to comply with those requirements.

Key implementation activities being undertaken include:

- Developing a compliance monitoring checklist for enforcement inspectors.
- Developing a WPS chapter in the manual for enforcement inspectors.
- Conducting workshops to train enforcement inspectors.

Implementation Schedule

The WPS implementation schedule is designed to implement the most crucial provisions of the standard as quickly as possible, and allow time for EPA and cooperating organizations to develop and distribute training and instructional materials.

Pesticide Users' Compliance Schedule

EPA is implementing the Worker Protection Standard for pesticide users in two phases:

1. **Label-specific WPS requirements** will be enforceable when they appear on pesticide labels (no sooner than April 21, 1993). Label-specific WPS requirements include:
   - using label-specified personal protective equipment (PPE),
   - obeying label-specified restrictions on entry to treated areas during restricted-entry intervals (REIs) and
   - obeying the requirement on some labels to provide oral warnings AND treated-area posting.

2. **Generic WPS requirements** will be enforceable on and after April 15, 1994. Generic WPS requirements include:

   - providing decontamination supplies,
   - training of workers and handlers,
   - providing certain notification and information,
   - cleaning, inspecting, and maintaining PPE, and
   - emergency assistance.

Registrants' Implementation Schedule

EPA has established the following schedule for registrants to make the WPS-required alterations to their pesticide product labels:

- **No labeling with** the WPS-required statements may be sold or distributed **before April 21, 1993**. This 8-month period allows EPA to inform registrants how to revise their labels correctly and inform users about the label-specific requirements with which they must immediately comply.
- **No labeling without** the WPS-required statements may be sold or distributed **by registrants after April 21, 1994**.
- **No labeling without** the WPS-required statements may be sold or distributed **by anyone after October 23, 1995**.

APPENDIX 4. Briefing Three and Four: Families, Children, Education

ASSOCIATION OF FARMWORKER OPPORTUNITY PROGRAMS' TESTIMONY BEFORE THE COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Broken Covenant: The Future of Migrant Farmworker Children and Families in the United States

Presented by:
Lynda Diane Mull
AFOP Executive Director

February 19, 1993

Broken Covenant: The Future of Migrant Farmworker Children and Families in the United States

Good morning. I want to thank you for the opportunity to speak about the migrant and seasonal farmworker population in the United States. My name is Diane Mull, Executive Director of the Association of Farmworker Opportunity Programs. AFOP is a national federation of farmworker employment, training, and support service organizations serving migrant and seasonal farmworkers through 450 field offices located in 49 states and Puerto Rico.

I have been asked to address labor standard issues as they relate to migrant farmworker families, and especially migrant farmworker children in the United States. The comments I am going to make today are fairly unsettling and may make some people very uncomfortable. This is not the first time that these statements have been made for the record, and unfortunately, will likely not be the last.

I am here to tell you, as countless others have before me through the years, that the migrant and seasonal farmworker population's health and well-being are at risk and that this population is more vulnerable than any other occupational group to exploitation and abuse. There are few labor standard protections for workers in agriculture, and even less protection for the children, which leads to greater chance of their exploitation and abuse.

Broken Covenant

Children are a significant part of the agricultural workforce. Although accurate counts of the farmworker population continues to evade even the best statisticians, United Farmworkers

Union estimates that as many as 800,000 children work in agriculture. The National Association of Community Health Centers reported in 1991 that 38 percent of farmworkers consist of women and children under the age of 14. But whether a farmworker is an adult or a child or a migrant or a seasonal worker, I know of no other people in our society who work harder, with as little protection from exploitation, in return for so few opportunities or benefits. The migrant farmworker adult and child make tremendous sacrifices in health, education, housing, and financial security in order to help provide the abundant supply of low-cost food which we as a nation take for granted.

Towards the beginning of this century, we saw a shift in our societal values, which led to the passage of child labor laws. In earlier decades, society decided that it would no longer accept the notion that the need for cheap labor by business was a valid reason for subjecting workers to hazardous and exploitative working or economic conditions. Although children had been a good source of cheap labor, over time, our society has committed itself to protecting children from neglect, abuse, and exploitation. Equally as important, our society has gone a step further and committed its resources to offering a fair deal for its children: the opportunity for a brighter future, including the right to a decent education, safe housing, health care, and economic security. In this great country of ours, we view our children as the future of our country, not a cheap, easily exploited source of labor. Unless, of course, we are talking about children born into a migrant farmworker family.

How different is it for the migrant farmworker child than for other children?

- A migrant farmworker child can be employed in agriculture even if younger than 10 years of age. No other child can.

- Even without parental consent, 10- and 11-year-old migrant farmworker children can be used as hand-harvesters if the farm gets a waiver from DOL. No other child can.

- A migrant farmworker child under the age of 12 can be employed on a farm that does not pay the minimum wage if the child has written consent from his or her parents. No other child can.

- A migrant farmworker child can work in agriculture more than forty-hours a week, even during the school term. No other child can.

- A migrant farmworker child or adult can work more than forty-hours a week but is not eligible to receive overtime pay. No other child can.

- A migrant farmworker child can work an unlimited number of hours performing agricultural services before school. No other child can.

- A migrant farmworker child 14 or younger, can use knives, machetes, operate machinery, and be exposed to dangerous pesticides. No other child can.

Children who work in agriculture often work long hours in the fields before, during, and after school hours, risking exposure to dangerous pesticides, and even earning income for which they may never be credited. These children, like their parents, are often exempt from unemployment compensation, worker's compensation, overtime, and federal minimum wage—benefits that most Americans take for granted.

What impact have years of exploitation and abuse had on farmworkers?

Hired farmworker children are beset by an overwhelming array of education and health problems, which are exacerbated by the weaknesses of the current laws.

Children who work in the fields often work during school hours, which deprives them of their right to an education. Because of this disruption in their education, farmworker children usually are forced to remain in farmwork, enduring the same substandard working conditions as their parents and grandparents. A typical work day for many hired farmworker children begins before sunrise and ends after sunset, even on school days. *Children of the Field*, a film by Peter Monahan, documents the wide anecdotal evidence that many farmworker children work 8 hours per day during the school week, and that many work as much as 4 hours before the school day starts.

Farmworker children have a difficult time keeping up with their classmates, suffering extreme fatigue and poor nutrition. The children do struggle—at least for a short while. Eventually, long hours and strenuous work take their toll, causing excessive absenteeism. This often results in their being held back, getting discouraged with school, and usually, dropping out, which almost certainly condemns them to the strain and poverty of agricultural or other menial labor for the rest of their lives.

With no before- and after-school work hour restrictions, hired farmworker children work hours before school begins, forcing them to arrive late. Exhausted from waking up so early and doing heavy manual labor, they sleep most of the day at school, only to return home to find several more hours of work awaiting them.

Migration from one agricultural work area to another also compounds the problems for the migrant farmworker family. Constant moving, short periods of employment, longer periods of unemployment, income fluctuations dependent upon the crop and crop conditions, and annual disasters all play a part in the disruption of education and economic stability of the migrant farmworker family.

Impact on Education

The following statistics demonstrate the price farmworker children pay in part because no laws restrict their working before and after school hours when school is in session:

- The rate of school enrollment for farmworker children is lower than for any other group in this country [*Migrant Education: A Consolidated View*, Interstate Migrant Education Council, 1987].
- The dropout rate for migrants is 45 percent. For the rest of America, the rate is 25% [Migrant Attrition Project, Testimony before the National Commission on Migrant Education, February 1991].
- Migrant Education programs, K-12 lose approximately half their initial enrollments by the 9th grade. One in ten completes the 12th grade [U.S. Department of Education, Office of Vocational and Adult Education, *The Education of Adult Migrant Farmworkers*, Vol. 2, January, 1991].
- 80% of the adult migrant farmworker population is considered educationally disadvantaged, i.e., functioning at a 5th grade literacy level or less [U.S. Department of Education, Office of Vocational and Adult Education, *The Education of Adult Migrant Farmworkers*, Vol. 2, January, 1991].

Impact on Health

Even though farmworker children often lose educational opportunities through working in the fields, those problems pale in comparison to the physical dangers they face. The *Wall Street Journal* reported on July 20, 1989 that 300 children die from farm-related accidents each year, and that more than 23,500 are injured. Additional tragic health statistics about migrant farmworker children include:

- The infant mortality rate for migrants is 25% higher than the national average [Interstate Migrant Task Force: Migrant Health, 1979].

- The rate of parasitic infection among migrants is estimated to be 11 to 59 times higher than that of the general U.S. population [Ortez, J.S., *"Composite Summary and Analysis of Hearing Held by the Department of Labor, OSHA on Field Sanitation for Migrant Farmworkers,"* Docket No. H308, 1984].

- A recent study found that 48% of farmworker children working in the fields had been sprayed with pesticides ["The Hidden Cost of Child Labor," *Family Circle*, March 12, 1991].

- Two studies have linked childhood brain tumors and leukemia to pesticide exposure [*The Occupational Health of Migrant and Seasonal Farmworkers in the United States*, Farmworker Justice Fund, 1988].

- A recent study found that in California from 1982 to 1990 there were an average of 1,173 reported illnesses annually related to pesticide exposure. During the same time period, there were a total of 50 fatalities that were classified as being definitely, probably, or possibly related to pesticides [*UC Agricultural Health and Safety Center News*, University of California, Health and Safety Center, at Davis, California, Winter 1993].

- At least forty-two children under the age of 15 died as a result of farm-related accidents in California between 1980 and 1989, with approximately four death per year for the ten year period. An evaluation of deaths among children not noted as occurring on farms suggested that the actual number of farm related deaths among children may be 25% greater than was observed [*UC Agricultural Health and Safety Center News*, University of California, Health and Safety Center, at Davis, California, Winter 1993].

- The life expectancy for the migrant worker is 49 years, compared to 73 years for the general U.S. population [Center for Disease Control, 1988].

Impact on Economic Stability

Lack of strong and equal federal protections sends a clear message to states. As a result, 16 states still do not have labor standards specifically protecting farmworker children. Since farmworker children can be hired as employees in agriculture at the age of 10, and sometimes younger, those labor protection standards that apply—or more accurately, do not apply—to adult farmworkers also apply to farmworker children. Hired children in agriculture who are functioning as adult workers experience the same economic instability as the adult farmworker.

- The average income for a farmworker family is less than $6,000 per year compared to more than $28,000 for the average American family [Center for Disease Control, National Center for Health Statistics, 1988].
- Agriculture was classified as the most dangerous occupation in the country [National Safety Council, *Accident Facts*, 1989]
- Only 36% of farm labor is guaranteed the right to drinking water, handwashing water, and access to toilet facilities in the fields [*Migrant Health Clinical Supplement*, May/June 1990, National Migrant Resource Program].
- Because of the 500-man-day exemption in the Fair Labor Standards Act (FLSA), only about half of all migrant and seasonal farmworkers-children and adults- are entitled to a minimum wage [*Migrant Health Clinical Supplement*, May/June 1990, National Migrant Resource Program].
- Only 14 states provide full worker's compensation coverage for farmworkers—adults or children—and in 19 states, worker's compensation does not apply to agricultural workers at all [*Federal and State Employment Standards and U.S. Farm Labor: A Reference Guide to Labor Protective Laws and Their Applicability in the Agricultural Workplace*, Austin, Texas, 1988].
- In 15 states, there are no job safety standards applicable to agriculture [*Federal and State Employment Standards and U.S. Farm Labor: A*

Reference Guide to Labor Protective Laws and Their Applicability in the Agricultural Workplace, Austin, Texas, 1988].

Only 4 states provide full unemployment insurance coverage for farmworkers [*Federal and State Employment Standards and U.S. Farm Labor: A Reference Guide to Labor Protective Laws and Their Applicability in the Agricultural Workplace*, Austin, Texas, 1988].

Why Do Farmworker Children Work?

The U.S. Departments of Labor and Agriculture found that there is no shortage of adult farm labor in the U.S. In fact, the National Agricultural Workers Survey indicated that there has been an increase in the farm labor population since 1986. With an abundant supply of adult workers, why are children needed and why do farmworker parents allow their children to work in the fields? The answer is simple. It is a basic matter of survival for the farmworker family, because the adult farmworker is not adequately compensated and does not have the same basic labor standard protections that are afforded all other workers.

Farmworkers are the lowest-paid occupational group in America. Farmworker children work out of necessity in order to help supplement their family's limited income. They work in the fields illegally to help increase the productivity of the adult workers. Entire families must work because adult farmworkers receive extremely low wages and sporadic, seasonal employment, which results in annual incomes well below the poverty line.

Often, adult farmworkers are paid under the piece-rate system rather than receiving an hourly wage or being paid for overtime. Children help increase the piece-rate wages their family can earn by performing such tasks as picking crops and carrying heavy bushel baskets to and from the loading trucks.

Many farmworkers come from families who have been agricultural workers for generations. Because farmworker children often miss school in order to work, they have limited educational opportunities, and few skills transferable to other occupations. This in turn keeps them in farmwork, and perpetuates the cycle of poverty.

Why are exemptions under the law allowed for agricultural industry when no other industry is exempt? What justification by an industry group warrants exploitation and discrimination?

A good part of the responsibility for this situation rests with the Congress and their lack of will to stand up to powerful agricultural and related industry lobbyists. By allowing these exemptions, Congress has perpetuated the outdated, abhorrent concept that the need for a cheap and readily available supply of labor justifies the exploitation of millions of children and adults. Congress has bought into agricultural industry's argument that higher farm wages would drastically increase food prices or would drive them out of business.

But Philip Martin, Agricultural Economist at the University of California at Davis, believes that "farm wages account for less than 10 percent of the retail price of a head of lettuce or a pound of apples." Farmworker wages only account for a very small portion of the consumer's price for food. The costs that society now has to pay to remedy problems created by farmworker poverty far exceed any such minor increases that would occur in retail food prices. This is not a recommendation to eliminate current farmworker support programs, but an argument for the use of modern labor management practices in agriculture.

Questions about the conditions of farmworkers concern me every day. Why does society condone the conditions under which farmworkers and their families toil? Why does Congress regularly exempt them from the basic workplace protections offered to the rest of society? Can anyone here truly believe that the child of a farmworker has no need of the laws that protect the child of the autoworker, schoolteacher, store clerk, bank teller, secretary, or congressional representative? Also, can anyone here truly believe that the adult farmworker has no need of the laws that protect the autoworker, schoolteacher, store clerk, bank teller, secretary, or congressional representative?

If it is true, as President Clinton has said, "that we don't have a person to spare," then why is this population expendable and why is there no commitment to the future of these children?

Recommendations for Improving Migrant Farmworkers' Future in the U.S.

Hired workers in agriculture, both children and adults, need representation at the national level to address their needs and concerns to ensure for them an equal chance to achieve the American dream. As the silent, national citizenry, they have for too long been overlooked during the legislative process—both with deliberately avoiding their issues and trading off their interests for the sake of other more visible and powerful groups. To amend the years of discrimination and exploitation of this population, we urge the adoption of the following recommendations:

- ☐ Eliminate all farm labor exemptions in the Fair Labor Standards Act and DOL regulations, including: 1) child labor, 2) minimum wage, and 3) overtime pay

- ☐ Eliminate farm labor exemptions under the National Labor Relations Act

- ☐ Do no continue to pass the annual rider to OSHA appropriations bill that prevents OSHA from enforcing field sanitation laws on farms with 10 or fewer workers

☐ Provide full funding for programs that provide child care, health services, education, and job training for migrant and seasonal farmworkers

☐ Provide for the protection of and services to farmworkers who may be negatively impacted due to the North American Free Trade Agreement

☐ Support the enforcement of the current regulations and levy stiffer civil fines and criminal penalties for violations

☐ Support the full implementation of the EPA Worker Protection Standards and ensure that agricultural workers and handlers are afforded complete educational opportunities geared to their needs

☐ Encourage the use of integrated pest management practices as an alternative to the use of pesticides

☐ Establish a nationwide database to match farmworkers to available far jobs and reduce the need to import H-2A workers

☐ Encourage innovative labor-management practices in agriculture

☐ Mandate colleges that issue degrees in agriculture and which receive federal funds to require training in labor management practices for all their future graduates

☐ Make the DOL Child Labor Advisory Committee a permanent committee with representation on behalf of hired farmworker children through the Association of Farmworker Opportunity Programs (AFOP)

☐ Increase health education and outreach to promote good nutrition and healthy lifestyles for migrant farmworker children and families

☐ Increase the field sanitation regulations in labor camps and enforce their implementation through periodic inspections to insure proper sewage, running water, electricity, and general safety and hygiene in the migrant camps

☐ Ensure that assistance is provided for migrant and seasonal farmworkers during times of natural or economic disasters and other agricultural emergencies

☐ Direct the Census Bureau to modify their long form questionnaire in order to improve the 75% undercount of the farmworker population

☐ Facilitate increased coordination among the programs that provide services to farmworkers

I applaud the Commission for its efforts in their area. It is difficult for any nation to criticize itself when in full view of other nations and when so often we are seen as the "champion" of human rights. This is, however, clearly one of those cases where the United States needs to "sweep its own doorstep" before helping another nation sweep theirs!

What is AFOP?

Now celebrating its twenty-first anniversary, AFOP is the national association that represents farmworker organizations and state agencies operating JTPA Title IV §402 grants.

AFOP's fifty-three member organizations in forty-nine states and Puerto Rico provide disadvantaged farmworkers with education, training, and employment opportunities both within and outside of agriculture. AFOP in turn serves as a national advocate for both farmworkers and its member organizations.

AFOP has helped farmworkers in many ways. AFOP's educational efforts on Capitol Hill have reaped several important rewards, including gaining a $20 million emergency aid provision for farmworkers in the 1990 Farm Bill, protecting farmworker children under child labor legislation, and exempting farmworker youth from the sub-minimum wage legislation. During the IRCA legalization program, AFOP served as an INS National Coordinating Agency and was the third largest producer of legalization applications in the country. AFOP represents farmworker concerns on a number of national advisory groups, ranging from child labor to immigration to health to the U.S. Census.

AFOP also helps its members to work more effectively on behalf of farmworkers in a variety of ways. AFOP has provided information to the Department of Labor and members of Congress on the merits of the §402 programs, thereby assisting to increase the program's appropriations each year. To inform its members on the latest legislative and regulatory issues affecting the farmworker community, AFOP publishes the *AFOP Washington Newsline*, a monthly newsletter now in its twelth year of distribution. AFOP also sponsors several training conferences and provides direct technical assistance to its members each year.

In addition to these activities, AFOP has prepared several special reports and publications of tremendous value to the farmworker employment and training community and the public at large, including *Building Educational Foundations: A Survey of the Literacy Initiatives Undertaken by the JTPA Title IV §402 Grantees*, *Partnerships: Helping Migrant Farmworkers Help Themselves*, and *Coordination Achieved by the JTPA Title IV §402 Grantees.*

And AFOP is moving into new areas. The Farmworker Pesticide Safety Project is a cooperative effort between the Environmental Protection Agency and AFOP to develop a national pesticide saftey program for agriculture program for farmworkers and pesticide handlers. By using a "train the trainer" curriculum, organizations can establish their own programs and train other farmworker personnel, workers, and volunteers to deliver pesticide training within their own states. For the Health and Nutrition Project, AFOP joins forces with the Department of Health and Human Services to improve the access of migrant and seasonal farmworkers to nutrition programs and to nutrition-related health education. Nutrition training and coordination will take place at the 1993 National Joint Farmworker Confernce in May.

In the future, AFOP will continue to provide information, education, and support on farmworker issues to its members, federal agencies, members of Congress, and private coalitions to improve the lives of all migrant and seasonal agricultural workers in the United States.

TESTIMONY of

DR. FRANK CORRIGAN
Director: Office of Migrant Education
U.S. Department of Education

before the
COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Briefing on Migrant Farmworker Children

February 19, 1993

Madam Chair, distinguished guests, ladies and gentlemen, I appreciate the opportunity to present information about the Migrant Education Program for the Commission. The Migrant Education Program provides a wide range of educational and support services to address the special educational needs of migrant children. The program serves both currently and formerly migrant children: currently migrant children are those who have moved across school district lines in the past year with--or to join--parents or guardians seeking temporary or seasonal work in agriculture or fishing; formerly migrant children are children whose last such move was 12-60 months ago.

The Office of Migrant Education administers four basic programs responding to the special needs of these students at different points in their educational development. The largest program, the so-called section 1201 program, provides formula grant funds to States to be used for supplementary education and support services to meet the special educational needs of migrant children. Funds are allocated through a statutory formula that is based on the number of eligible, full-time-equivalent migrant children, aged 3 through 21, residing each calendar year within each State and the State's average per-pupil-expenditure. Over 300 million dollars was allocated for this program in each of the last three years.

State program funds are used for remedial, compensatory, bilingual and multi-cultural instruction, as well as vocational and career education services, special guidance counseling and testing, health services, preschool programs and other similar activities.

The demographics of this, the largest part of the program have changed significantly in the past several years. For instance, the numbers of migrant children identified for the program have increased from approximately 475,000 in 1985 to approximately 625,000 in 1991. Our projections anticipate a further increase of 100,000 students by the year 2000. Our data also show an increase in the proportion of Hispanics among migrant students. Between 1985-86 and 1989-90 the percentage of Hispanic students served by the program increased from 75% to 79% of the total number of students served.

Two OME programs focus on helping students graduate from high school and with their first year of college. The High School Equivalency Program (HEP) is designed to help persons over the age of compulsory school attendance (generally age 16) to obtain the equivalent of a secondary school diploma and subsequently to gain employment or begin postsecondary education or training. To be eligible an individual or their family must be engaged in migrant or seasonal farmwork, or have participated or be eligible to participate in either the Chapter 1 Migrant Education Program or the Migrant and Seasonal Farmworker Programs --and must not be currently enrolled in school. In program year 1991-92, there were 23 HEP projects with almost 3,100 participants.

The College Assistance Migrant Program (CAMP) assists students who are enrolled in the first undergraduate year at an institution of higher education to complete their program of study for that year and to obtain financial assistance. The eligibility requirements for this program are similar to those for the HEP program. In program year 1991-92, there were 7 CAMP projects enrolling almost 400 participants.

The Migrant Education Even Start Program (MEES) is a family-centered education program which involves migrant parents and their children ages 0 to 7 in a cooperative effort to enable parents to: 1) become partners in their children's education, 2) assist migrant children in reaching their full potential as learners, and 3) provide literacy training for their parents. In this program, priority is given to currently migratory children; formerly migratory children are served if space is available.

There are currently 9 such projects; up to six more will be funded this year.

In addition to administering the programs noted previously, the Office of Migrant Education has a mandate to carry out special activities that enhance the interstate or intrastate coordination of Migrant Education programs.

Under Section 1203 there are two mandated activities. The first, the Migrant Student Record Transfer System, or MSRTS, is a computerized system which maintains individual records on approximately 1.2 million migratory children ages 0 through 21.

These records contain academic, health and related data on each student. The MSRTS central site computing and data storage facility has been based in Little Rock, Arkansas for 20 years. There are 230 MSRTS data-entry/retrieval terminals throughout the United States, generally in areas with high concentrations of migrant workers and their families.

The basic purpose of MSRTS is to assist migratory children with their education, by quickly transferring these students' up-to-date academic and health records from school to school as the children migrate with their parents who are seeking work.

In addition, MSRTS provides student full-time-equivalent counts which are used in determining State funding allocations.

The second 1203 mandated activity is the National Project for Secondary Credit Exchange and Accrual. As they travel with their parents, migrant students attend many different schools, and often have difficulty meeting graduation requirements and receiving a high school diploma in a reasonable time. The ultimate goal of this three year credit exchange project is to develop a system in collaboration with individual States, schools and national education organizations, that allows migrant students to retain and accrue credits that they have earned.

Other projects under section 1203 are the Stopover Site and the Program Coordination Centers. The mission of the Migrant Education Stopover Site is the enhancement of inter- and intra-state coordination among migrant education programs. Main functions of the center are: 1) identification, recruitment and enrollment of migrant students, 2) informing receiving States about migratory farmworker families traveling to their States, and 3) providing migrants with information on educational opportunities and health and social service information available at them at their destination.

Lastly, the Program Coordination Centers were created to improve the inter- and intra-state coordination among State and local educational agencies of the educational programs available for migratory students. The Program Coordination Centers: 1) establish activities to strengthen the capacity of State and local education agencies to meet the needs of migrant children, 2) facilitate the coordination of inter- and intra-state programs and projects, 3) enhance the delivery of academic and support services to migratory children and their families and 4) collect and disseminate information on exemplary programs and practices that will improve the inter-/intra-state coordination of services.

Based on poverty, mobility, limited English proficiency and other circumstances unique to migrants, the Office of Migrant Education supplements and adapts existing education services for migrant students by creating additional service systems and coordinating all services to which they are entitled.

Interstate
Migrant
Education
Council

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Testimony of John D. Perry

Senior Project Consultant

Interstate Migrant Education Council

Before the

Commission on Security and Cooperation in Europe

February 19, 1993

STRUCTURE OF THE INTERSTATE MIGRANT EDUCATION COUNCIL

The Interstate Migrant Education Council (IMEC) is a consortium of eighteen states representing over 80% of the migrant youth eligible for supplemental education services funded by the federal government. The goals of IMEC are to develop awareness of the unique needs of migrant students and to promote intergovernmental, interagency, interstate and public-private collaboration on behalf of migrant families.

Each member state's chief state school officers appoints either three or four members to IMEC. (The number depends on the size of the state). IMEC is chaired by Congressman William Ford, Michigan.

IMEC does not deliver services. Instead it identifies critical issues facing migrant students in their pursuit of an education and utilizes the expertise of its Council members to develop strategies to solve problems. IMEC's primary focus is on education, but because learning is a combination of life style circumstances, IMEC is ultimately interested in all services that may better prepare a child to learn.

DECREASE IN FUNDING FOR MIGRANT EDUCATION

Since the late 1960's the United States has made a commitment to provide supplemental education funds for migrant youth. In the last decade however, federal funding has not kept up with need.

Funding has not kept pace with growth in full time equivalent students (FTEs). FTEs have gone from 428,000 in 1980 to 773,000 in 1992, an 81% increase. However, funding has only increased 14% from $266 million in 1980 to $303 million in 1992.

Both the National Commission on Migrant Education and Research Triangle Institute have indicated the number of migrant students is greater than the number being identified. There are several causes of this under-identification. First, the 1981 formula tends to encourage states to provide services to settled out migrants who generate one FTE rather than a current migrant that only generates a partial FTE. Second, states with small grants do not have sufficient resources for identification and recruitment. (Migrant education funding is dependent on annual identification of students). When these states do not have adequate funding it makes it difficult to have a truly national program for migrant youth. Third, under the formula prior to 1981 states received additional money for additional FTEs, but since 1981 funds have been capped and appropriations have become significantly less than full funding. The tendency has been that increases in FTEs in the nation cause decreases in services. There are many states who significantly increase FTEs and sill lose federal funding and cannot provide services to all those identified.

All of these factors mean that services in per dollar per FTE are dramatically declining!

Another point that should be brought to the Commission's attention is that states put very little state money into direct funding for migrant students. States do provide the general education programs for all students, but if it were not for the federal Chapter 1 Migrant

Education Programs there would be minimal special services for this population. meaningful.

MIGRANT EDUCATION: A NATIONAL MODEL

The tragedy of the significant decline in funding is that the programs that have been developed by migrant educators should be models for the rest of the nation in dealing with disadvantaged children. Before the reform movements in American education were talking about such things migrant educators were providing services to the whole child (health, clothing, nutrition); providing services in early morning, late afternoon, evenings, weekends and in summer; actively involving parents in the learning process; applying technology to track students; and actively espousing the philosophy that all children can learn. Migrant educators, to a person, believe that if there is a lack of achievement by a migrant student it is not due to the student's failure but rather to the school's failure to respond to the unique needs of migrant children.

An example of the success of the migrant education program is the decrease in the dropout rate. The best evidence available is that in the mid 1970's, 90% of migrant students did not complete high school. Currently the evidence indicates that between 45% and 50% do not complete high school. Too many are dropping out, but the curve is going in the right direction.

Still, there are many critical problems facing migrant students, such as:

1. health services,
2. housing,
3. pesticides, sanitation, clean drinking water,
4. delays in starting school at the same time as their peers,
5. intermittent attendance,
6. lack of English proficiency,

7. falling behind grade levels,

8. being aliens in every community,

9. special education services,

10. exchange of school credits

Also, as American education dramatically changes with emphasis on early childhood services, school to work transition, and structured work experiences the migrant student will be left out unless the federal government adequately funds programs, and involves migrants in their policy decisions.

THE NEED FOR FULL FUNDING

A program such as migrant education deserves adequate funding! With full funding migrant educators could do a better job for more students. Full funding would cost about $600 million annually in addition to the $303 million 1991-92 appropriation because currently the program receives approximately 32% of full funding. Logically these expenditures are a sound investment for the individual and the nation. A program that develops educated, self-confident, productive persons will surely reduce demands on other service programs.

THE NEED FOR COORDINATION

I will provide a few examples of the need for coordination.

A major obstacle for migrant students to graduate from high school is the difficulty in accruing and transferring secondary credits. Migrant educators have worked diligently on this problem for fifteen years, but to effectively develop a program entails the coordination of fifty state education requirements for graduation, and hundreds of different requirements among local school districts.

Special education services is another difficult case. Here we are dealing with a small minority within a minority. All evidence indicates migrant youth are far underrepresented in special education services.

Services from birth to five are now justly receiving their proper attention, especially for low income families. However, it is only on rare occasions that Migrant Head Start and Migrant Education work closely together. (A breakthrough in this area may develop because of a recent meeting between the two groups).

The Commission has received extensive testimony about the difficulty of migrants receiving adequate health services. Migrant educators want to do everything possible to help in this regard, but different jurisdictions often make this impossible.

IMEC has recently received testimony about the horrendous conditions of migrants who are recent immigrants, living on the border of Mexico and the United States in Texas, New Mexico and Arizona. This may be the best example of the need for coordination because the circumstances that affect the lives of these people are under the multiple jurisdiction of the United States and Mexico and the various border states in both nations. In the United States the problems of the border residents also fall under the jurisdiction of several departments; Education, Health and Human Services, and Labor. No one seems in charge!

I would recommend to the Commission a close examination of the April 1992 report of the Administrative Conference of the United States (ACUS). It discusses in detail the four major programs for migrants, education, health, Head Start and labor and the six minor programs. It documents the different definitions, eligibility requirements, administrative structures, philosophies, legislative background and department jurisdictions. All the programs are trying their best to do their job; they are sometimes talking to each other; but again, just as in border issues on international migrancy, no one is in charge!

Because of the lack of a common definition and different eligibilities, different agencies are often recruiting the same families. This causes a duplication of service and great confusion to the families.

There are no bad intentions by the bureaucracies, it is just bad government. There are letters exchanged, some memorandums of understanding are signed, but very little coordination is institutionized.

THE NEED FOR CENTRALIZED ADVOCACY

One of the greatest problems created by the lack of coordination is the lack of a common data base. Without facts on which everyone can agree it is if often difficult to take action, and difficult to convince skeptics of the need for action.

As I have indicated, the problem is not caused by bad intentions. My observations of the professionals who work to serve migrant families in all the programs is that they are extraordinarily dedicated. However, the offices are scattered among several agencies and their isolation from one another decreases their ability to act in common. Also, because the divisions or bureaus that handle migrant issues are usually in a relatively low echelon of the departments it is virtually impossible for them to influence policy makers.

Migrant families can be better served, even with the same amount of fiscal resources, if there were a body or an office that could have input on behalf of migrants on all major decisions of the federal government. A health care system should hear from migrants. A new housing policy should include migrants. A new apprentice program should have set asides for migrants. Migrants should be included in a new public service program. For these things to happen and for funding to meet needs, the various services for migrants should be brought together for the purpose of advocacy, while maintaining the individualized integrity of programs. This change would make it possible for the migrant message to be heard as a group rather than being divided into very small divisions in very large agencies.

APPENDIX 5. Briefing Five: Solutions and Strategies

Presentation before the Helsinki Commission
Washington , D.C.
by

Arcadio Viveros, Mayor of Parlier
Chief Executive Officer of United Health Centers of the San Joaquin Valley, Inc.

April 8, 1993

Mr. Chairman and Honorable members of this great Commission. My name is Arcadio Viveros, Mayor of the City of Parlier California and Chief Executive Officer of United Health Centers of the San Joaquin Valley, Inc. My involment as an advocate of farworker and migrant needs has brought me here before you in a very humble way to participate with you finding solutions to improve the health and living conditions of migrant farmworkers.

I am member of the National Advisory Council on Migrant Health that advises Department of Health and Human Services Secretary Donna Shalala on issues affecting the health of migrants and seasonal farmworkers. I am also in the Executive Committee and founding member of the National Hispanic Housing Council. The Council is working with Secretary Henry Cisneros of the Department of Housing and Urban Development (HUD) to implement policies that would assist with the housing needs of migrants.

First of all I will like to thank you for inviting me to testify on finding solutions to assist the migrants when they arrive to a community like mine. In a very humble way I will like to share with you my experiences working with this population. I hope that the solutions which I am presenting can be acceptable so they can be replicated in other parts of this country - wherever farmwrkers may live,

First, let me qualify my statements by sharing with you little of my life which illustrates perhaps the lives of other migrants. I arrived in this country on June 20, 1961, I came, along with my mother and four brothers and sisters to join my father who had been in this country, practically most of my life. Ever since 1944 my father was away working in the United States as part of the Bracero Program. As you can imagine having grown up without a father, I was very happy that all of us would live together as a family. This happiness did not last long, for just after two weeks of our arrival in the US, my family separated again. My older sister, a younger brother and I immediately became migrant farworkers. Leaving half of our family, we began following the crops and migrated from southern California to the Central San Joaquin Valley in California. I have worked in the fields laboring in all aspects of the labor intensive crops of sugar beats, lettuce, carrots, peaches, plums, figs, walnuts, tomatoes, grapes, oranges, and grazing sheep, etc. Two years later my father and the rest of the family joined us in the migrant stream. In 1965 we settled in Parlier California where I made it my permanent home.

PARLIER:

Parlier is a typical small farming community of 8,500 residents. However, that's just the official US Census figures. The real figures, however, are much higher. You see The US Census did not take into account the 4,000 Migrants or families that lived in garages doubling up in rentals with two or three families. The Census neither counted the single males living in overcrowded conditions. It is typical to find 10 people living in rooms with dimensions of 12' X 12'. This under count affected the rural farmworker communities from receiving additional allocation of federal dollars.

The ethnic composition of my city is 99% Hispanic. Eighty percent of the population work in Agricultural related industries. No developers or investors were interested in investing in one of the poorest community of California.

HOUSING:

When I became a Mayor I found a sever shortage of housing for both the seasonal and migrant families. The existing housing stock was made up of relocated salvaged dwellings that came form the construction of a freeway. Most of the homes were candidates for demolition.

The finances of the city were not good. I inherited a one million dollar deficit, and the city could not afford to file for bankruptcy. Today Parlier is in better financial shape and has alleviated its housing needs.

We utilized the Redevelopment Law to declare the entire city a blighted area. Under California law any new construction or improvements made to an area produces tax increments. The difference between the original assessed tax and the tax on the improvements goes directly to the Redevelopment Agency for reinvestment in improving the area. The Agency has the opportunity to invest the funds in land acquisition for public purposes, invest with developers in construction of housing programs, build streets, sidewalks, curbs and gutters and provide street lighting. The Redevelopment Agency is required by law to set aside 20% of its revenues in affordable housing.

The City Council is therefore the Parlier Redevelopment Agency and often times meet concurrently. By providing financial incentives housing developers have been attracted to rebuild the city. In many cases we have leveraged state and federal financial resources to bring about housing construction.

A typical example would be if a housing development cost 5 million dollars the Agency is expected to earn $700,000 of tax increments during the next 20 years. The Agency can negotiate with the developer the Agency's participation in the construction of sidewalks, streets, or other infrastructure in exchange for a cost reduction in the prize of the home. Therefore making the houses affordable. In one housing project we were able to infuse dollars from state, federal, local government, and private donations.

In addition the Parlier City Council had to incorporate as a charitable non-profit cooperation known as the Parlier Housing Corporation. The purpose of this organization is to assist farmworker families to provide them with the required downpayment so they can move into their new home. So often farmworker families lack any type of savings. Families receiving this type of assistance are required to reimburse the city in volunteer hours. They have two years to pay back.

I feel proud to report that through this program, over 500 families now own their home. In addition, over 200 apartments are for rent and the majority are providing rental assistance We have executed contracts to review their books for assurances that rental discounts are being provided.

It is my strong believe that this can be duplicated in other rural or urban communities.

We should not become callous to hear the clamors of many migrants yearning for justice to have a humble shelter over their head. The testimony I herd on April 4, 1992 during the hearings of the National Advisory Council on Migrant Health, a reverend working in the San Diego area said it so well. He said, that much of his life he had worked in the Fabelas of Brazil and as horrible as they may be, he had never seen worst living conditions until he saw it in the San Diego canyons. I was able to witness similar conditions in Monterey County where migrants were living in caves with the backdrop of million dollar homes.

I proposed that in addition to the recommendations which were developed by the National Hispanic Housing Council. See Attachment "A". A special office be established to assist Cities, Farmworker clinics, and other community organizations to became involve in providing housing opportunities to farmworkers.

Farmworkers work hard, long hours, get paid very little, thus provides the population with inexpensive food to you and I. Therefore why can the American consumer contribute to a national fund to build housing for Farmworkers. This can be done by assessing 25¢ per produce box sold in the market. The farmers will love it and the consumers will hardly feel it in their pockets.

HEALTH:

Since 1970 United Health Centers has been providing quality primary health and dental care to the migrant and seasonal farmworker population. In fact we were the first federally funded migrant health center that was established in California. From the beginning we felt that our responsibility toward the migrants was more than providing access to a doctor in the traditional way as you and I know a doctors office to be. The health conditions are a direct affect of many socio-economic ills of the communities in which farworkers live. Lack of housing, working intermittently to an average of 22 weeks out of the year, suffering the highest incidence of occupational injuries, being exposed to pesticide residues, and living in overcrowded living conditions, to name a few of this conditions.

Our five (5) migrant health centers are adequately named Family health Centers at each community where we are located. We provide an array of services which has a positive impact on the population we serve.

NUTRITION:

We provide nutritional services to 6,000 families enrolled in the Women and Infant Children (WIC) program.

PRINATAL HEALTH:

Perinatal services are provided to farmworker women covering prenatal, natal and postnatal services to insure a good birth outcome for the baby and mother.

DENTAL:

Dental services are provided with a yearly outreach into the schools where we provide dental screening and oral health education. Follow-up treatment is done at the clinics for children needing care.

SOCIAL SERVICES:

Social workers provide on site assistance to enroll eligible patients into medicaid, medicare, or public emergency assistance. The social workers come from the county seat and provide the services locally.

LEGAL SERVICES:

We have initiated legal services assistance to the community by providing space for consultation on matters of tenant rights, welfare advocacy, and other legal needs. We make referrals to other legal services agencies like CRLA for issues that require class action.

require class action.

WORK INJURY PREVENTION:

We are working with farmers and farm interest groups to reduce the incidence of agricultural work injuries in the California farms. With a W.K. Kellogg grant and linking two clinic association we are working in the high migrant impact areas of the Central San Joaquin Valley, North San Joaquin Valley, and the Salinas Valley. We are members of California Ag-Safe an advocacy group of industry representatives, university, health advocates, insurance companies, migrant clinics, and farmer organizations.

OTHER:

In addition to the above we have participated with the National Water Demonstration Project on strategies to clean the water systems. In Parlier we were able to leverage 2 million dollars in State funds to clean the municipal water from DBCP a carcinogen which has contaminated the underground water. Four new water wells were constructed.

Sincerely;

Arcadio Viveros

Farmworkers, moderate and low income

National Hispanic Housing Council Migrant Sub-committee
Recommendations
9/16/92

1. HUD and FMHA should provide Direct Subsidies to non-profit organizations, and provide T.A. to expand capacity building for existing organizations and create new ones.

2. Establish criteria for low income housing tax credits and low interest loans be allowed for Farmworker housing for private sector.

3. Establish a construction goal of at least 5 million units per year by government assistance for Farmworkers.

4. Better enforcement of CDBG funds for access of low and moderate income people.

5. Support Hispanic developers with performance bond assistance etc.

6. Rehabilitate existing camps when cost effective through use of government resources.

7. Local and state governments must be made responsible for using redevelopment laws to build additional housing for Farmworkers.

8. Provide legislative changes requiring states to set aside funds under CDBG for Farmworker housing. In addition, the CHAS state plans should be required to include Farmworker needs.

9. Agency must support the development of an initiative to address Farmworker needs through legislation.
Establish Migrant housing demonstration projects in heavy population areas where Migrants live.

10. Involve the participation of the private sector in developing models and financing strategies and assist in the planning and zoning processes.

11. Secretary Kemp should challenge the other Secretaries to provide housing and other services to the Migrant workers.

12. There should be additional funding to $100 million per year for 514/516 Farm Labor Housing under FMHA.

13. The NHHC and HUD endorse the Migrant/homeless program appropriation under FMHA.

There should be a special allocation of vouchers for migrants,

14. Vouchers and Section 8 should be accepted in any US
^jurisdictions for Migrants.

15. HUD and every agency should establish a permanent user friendly disaster relief program to assist Farmworkers and low income people. Disasters need to be defined so there are no delays in providing assistance.

16. Promote and publicize better utilization of the single family inventory housing program for access to Farmworker (FMHA 4,800 units/yr). Establish a national registry.

17. Expand the definition of "homeless" to include Migrant Farmworkers.

18. Similar to the USDA's marketing, order a per box of produce be taxed to create a national fund to finance housing for Migrant and Seasonal Farmworkers.

19. When code enforcement activities displace Farmworkers, HUD and states must provide relocation housing assistance.

Encarnacion "Chon" Garza, Jr., Principal
Ringgold Elementary
Rio Grande City C. I. S. D.
Rio Grande City, Texas 78582

It seems like only yesterday I started my career as an educator. Since then, I have been a teacher (8 years), a counselor (11 years), director for the alternative center (1 year) and elementary school principal almost two years. I was also a varsity tennis coach for 8 years. I graduated from high school in 1968, earned a B.A. degree in 1971 and an M. Ed. degree in 1979. I have also had the opportunity to work with summer migrant programs in the states of Colorado, Ohio, New York, and Maine. These summers have provided me with knowledge I would have never read in text books anywhere. Throughout my career, I have come into contact with many students with backgrounds similar to mine. It gives me a great feeling to be able to help these students because I know who they are and where they come from.

It is not difficult to look back and see where we came from and what we did to get here. There was much pain and suffering for our parents which as children we were not aware of. The beginning and the end were not difficult, what was hard was the road in between.

I have had a great experience with the children as an elementary school principal. Teaching elementary school children is an enormous task and responsibility. While a certain degree of intelligence is necessary in order for children to be able to learn, it is probably more important to develop a more positive self-concept and high self-esteem in order to succeed. At Ringgold Elementary everything revolves around this philosophy. All students will be treated with dignity and respect, and no student will ever be humiliated or embarrassed. All of our staff has also adopted this philosophy because they are also treated this way. The more success they experience the better their self-concepts.

I am the principal of the same elementary I attended as a fifth grader. As a matter of fact, my fifth grade teacher was still teaching at this school when I became principal last year. It felt strange to have to supervise and evaluate her. She retired at the end of last year. My office is located right under my fifth grade classroom, and I would never have imagined that I would become the principal here.

Migrant children and those who live in poverty have special needs which need to be specifically addressed. However, these children are human beings just like all the other children. They have the same basic needs. These children need to feel loved and wanted like all other children. They also want to be treated fairly, with respect and dignity and not to be made to feel inferior for their uniqueness. We have a very successful program, and many people have called me to ask if our program design is in writing. They are looking for something that can be easily replicated and implemented. My response to them was that what we do here is not something that can be put on a piece of paper and done on a step by step basis. What we do here is from the heart, all children respond to this whether they are migrant or not.

Our program has been successful because we genuinely care about all the children. All decisions are based on what is best for them. We have implemented a variety of programs which have been very successful. Our creative use of technology (computer labs), team teaching, heterogeneous grouping, a literature-based program, an affective driven program and other innovative programs and practices have greatly impacted student achievement. Our school scored well above the state average in (81% in writing, 87% in reading, 98% in math) the Texas Assessment of Academic Skills (TAAS). We have changed the paradigm. We have shifted from remediation to enhancement and enrichment for all students. As a result of this, expectations were raised and all students responded accordingly. RInggold Elementary's enrollment is 562, and 40% of these children are migrant. Test scores show that the number of migrant students who passed the TAAS has doubled the past two years has doubled at this campus. I am sure that there are other factors which have contributed to our success. However, when students are made to feel good about themselves and that they are really important, success is almost certain. All the research indicates this.

Our program has certainly proven that technology (computers) is an effective teaching tool. Education for migrant students must include this component at all grade levels.

Parents of migrant children must become fully involved with their children's education. Adequate parental involvement programs must be established. There are no better advocates for these children than their own parents.

Much emphasis and effort has been placed on secondary migrant programs nationwide. All of us know that intervention is much more expensive than prevention. Secondary migrant programs are providing invaluable services in order to help students graduate. The effort to provide these necessary services must continue. However, a more serious effort to assist migrant students in early childhood, elementary, and middle schools would be much more effective in the long run.

Encarnacion "Chon" Garza, Jr., Principal
Ringgold Elementary
Rio Grande City C. I. S. D.
Rio Grande City, Texas 78582

I am the son of Mexican born parents who originally came into the United States illegally in the late 1940's. I must have been very young when they were finally able to obtain the necessary documents for naturalization because I do not remember. It is difficult to explain why this great sense of pride comes over me when I think about being part of a family that came into this country under such difficult circumstances. Until recently, I had not realized how long and amazing my journey through life has been. It all seems like a movie, and we were the actors. I am convinced that these feelings of self-worth are the direct result of our parent's attitude. Our parents never felt shame for what they were or where they came from. They came to this country in search of a new and better life for themselves and their children. Even though the road was long, hard and bitter, no obstacles were ever too overwhelming to overcome. As children we grew up watching our parents working long and hard hours to provide all they could for us. I never imagined I was living in poverty, I thought everyone lived like us. If nothing else, we were always well fed, clothed and loved plenty. Perhaps this explains why there is much pride and unity within our family.

Since my mother still lives, I am very fortunate to have the opportunity to talk with her about such valuable and memorable experiences. She has shared many stories and adventures they experienced during their various journeys to this country. She told me how Dad came to the United States as a young man in search of adventure when he was a teenager. This was long before he married her. When they were married, my Dad held a job as a busboy at the famous Ancira Hotel in Monterry, Mexico (this hotel is still very prestigious). Needless to say, he was earning meager wages. Soon after they got married, he again made his way back to this country alone. This time he came to familiarize himself first and earn "dolares" to bring his family later. He left his wife and children in Mexico the first few times he came here. It was not long before my mother, who is a very strong headed woman, refused to stay behind in Mexico. She packed what little belongings they possessed and followed him to what was to be their home for the rest of their lives. My mother assures me that they had no idea they would never return to live in Mexico, to them it was just a temporary situation.

My mother never includes me in her accounts of their trips back and forth to this country. However, I have this strong feeling that I also came across the river illegally many a dark nights. There were many dangers to be encountered, the river was unpredictable, there was border patrol, river bandits and always the possibility of getting lost. With tears in her eyes, Mom talks about experiences which are still very vivid in her mind. Once, she said, we were ready to cross the river and my older brother and sister were terrified and scared of the water. She said my brother and sister refused to cross unless they built a dike or a path across the wide Rio Grande River. There were several times when they encountered the river riders on patrol but for some reason they were never apprehended and deported.

Once my parents made it across the river the first time, housing was their next obstacle. The story goes that their first home (the American Dream) in the United States was just a hut or lean to constructed by my father from three pieces of corrugated sheet metal which the farmer provided. All the houses in the camp were occupied, and there was no room. After a few days, a family left the camp and my parents moved into a one room building which they shared with another family. This room was divided in half by a sheet of irrigation canvass in order to provide some privacy. As time passed and my father gained seniority in the camp, housing conditions were better. As good as housing would get, it was always substandard.

Many years have since passed and only memories form part of our early days in this country. There are still many vivid pictures in my mind. I can still see Dad driving a tractor home from the fields, and I knew it was him only because Mom said so. I see him driving his first car home to show it to his family, and that was a life long dream for him. I also see him and Mom getting ready and making last minute preparations to drive their first son to college. They were the proudest parents in the world. I was a seventh grader when Jaime, my oldest brother, graduated and went off to college. I hated to see him go, but I knew it was a major accomplishment for him and my parents.

I am the third born of a family of six, there are four boys and two girls.

Even though I was born in the United States, I know I also had to endure the hardships that my older siblings experienced. My father worked hard to support his family and quickly earned the respect of the farmer. My mother never worked in the fields alongside my father, but she too worked hard to earn and save as much money as possible. She cooked and washed clothes for the single males in the camp, and sometimes she made more money than Dad did weekly. Mother took care of the money, was in charge of the family budget and she was really good at it.

It was not long before the farmer realized that my father was really valuable to his farm. He went out of his way to help him gain legal entry into this country. He wrote countless letters of recommendation and personally drove him back and forth to Mexico to look for the necessary documents. Soon after he was legally documented, the farmer made him foreman of the farm. It was a really difficult decision because he was going to replace a friend of his who was his "compadre." Dad held this job for about 30 years until 1979 when he died. Dad was really good at his job. With no formal education, he ran a major operation. Many a times, neighboring farm owners who had studied agriculture at the universities (or their sons), asked him for advise. My father was always willing to share his on the job expertise. My Mom says he made a living working the land, but working the land also brought him his death. He died of lung cancer probably from constant exposure to the polluted environment he worked in.

My parents had little if any formal education, Mom finished fourth grade and Dad said he started second grade but did not finish it. They never learned to speak English and therefore they were never really able to help us with our school work. Maybe this is why they valued education so much. Even though they could not help, they never ceased to encourage us to try our best. Ever since I can remember they talked about all six of us going to college. They had high expectations and therefore none of us ever questioned going to a post high school institution. Dropping out of school was totally out of the question. I have realized, through my experiences as an educator, that when parents leave room for choice and do not have high expectations for their children, many drop out and many more do not even think of college. Needless to say, all six of us finished high school and went on to college.

My first day of school is unforgettable, I do not think I slept all night because I was too excited. The night before my first day of school I went through a ritual which I still somewhat practice. I prepared my school supplies, I carefully looked at my two pair of pants and two shirts and selected what I would wear the following morning. That was not a very difficult decision to make. My shoes were brand new, and I slept with my socks as I anxiously waited for morning. I remember wearing a light blue pair of trousers and a white shirt. I did not have any trouble getting up that morning. My Mom had been sick for a long time and had to stay in bed. The first few weeks, Mom could not help me dress up or get ready for school. All the school age children were waiting their turn to brush their teeth and wash their face around a water pump in the middle of the camp. The older kids were talking about how mean all the teachers were. They were trying their best to frighten us. They were very successful because several kids ran home and refused to go to school. Even though I felt anxious and fearful, the long awaited day had finally arrived and I thought I was ready. I do not remember who fixed our breakfast that morning, but it must have been my older brother and sister since Dad was long gone to work. Finally we were washed and dressed. We had to walk about a quarter mile to catch the bus. I can still smell the fresh morning air scented by the willow trees along the narrow path which led to the highway. I have gone back to that path several times, and the willow trees still provide that special smell which brings back so many memories. Someone always takes our place, there are children living in that camp who still follow that path to school.

School was not as bad as the older kids had said it was going to be. The most difficult thing was not speaking English. The school's secretary (Sofie) was really nice and understanding. Later when I became a counselor at Jr. HIgh, Sofie was my secretary for awhile. Once while on recess, I had to kneel down against a tree for speaking Spanish on the playground. It was quite embarrassing to be punished this way. It still hurts and brings brings back painful memories when I think of this. The really bad thing was that an older student safety patrol (an Anglo student) was the one who administered this punishment. These kinds of experiences subconsciously made us feel that it was inferior to be Hispanic or to speak Spanish. For all practical purposes, we might as well have been mute because we did not speak English and Spanish was not allowed. According to the teacher, we were very "good" students because we were always so quiet. I learned English quickly and became a very good student. I was rather successful throughout the years and developed enough skills to be able to do well in college. Within my family, I have earned the highest degree. However, this does not necessarily mean that I am the most successful or "best" educated. I am really fortunate to have been the third born because my older brother and sister were able to help guide me through school. I feel good about myself and I thank my parents for their effort, sacrifice and dedication to guide us all through the quickest path out of this vicious cycle of poverty within one generation. Our parent's encouragement and support kept us going. To them, no obstacles could be more difficult than those they had to overcome for simple survival.

I remember working in the fields during many hot summer months, cold winter weekends and many days after school. Since Dad was the foreman, work was always available for us. We never had to leave the state in search of work but we knew of no other type of work other than the fields. For a long time I thought this was the only kind of work in the world. I was somewhat exasperated about this thought because I knew somehow that there was something else out there for me. Even though I did not realize it at the time, work like this was probably the single most powerful incentive Dad used to convince us education was the only way out. I did not understand how this would get us out of the fields but I trusted Mom and Dad. One particular incident is vivid in my mind. Once I told my father in a really angry tone, "yo por eso voy a ir al colegio, para no andar en la labor jamas! (that is why I am going to college, so I won't work in the fields ever again)." I was very surprised to see that Dad was smiling. I could not understand why he was not angry because talking to him that way was the ultimate disrespect. While all my friends were making plans for the summer, I dreaded every summer and they could not understand why. When I finally graduated from high school and went to college I realized that my father no longer expected me to work in the fields during the summers. Consequently, I had my degree in three years and I still worked in the fields as college graduate while I waited to see if I would be given a job. I got my first "real" job as a teacher, and it felt strange going from the "fields of dignity" to the classroom. The classroom kept me off the fields from summer to summer and the classroom has kept me away forever now as en educator.

It seems like only yesterday I started my career as an educator. Since then, I have been a teacher (8 years), a counselor (11 years), director for the alternative center (1 year) and elementary school principal almost two years. I was also a varsity tennis coach for 8 years. I graduated from high school in 1968, earned a B.A. degree in 1971 and an M. Ed. degree in 1979. I have also had the opportunity to work with summer migrant programs in the states of Colorado, Ohio, New York, and Maine. These summers have provided me with knowledge I would have never read in text books anywhere. Throughout my career, I have come into contact with many students with backgrounds similar to mine. It gives me a great feeling to be able to help these students because I know who they are and where they come from.

It is not difficult to look back and see where we came from and what we did to get here. There was much pain and suffering for our parents which as children we were not aware of. The beginning and the end were not difficult, what was hard was the road in between.

I have had a great experience with the children as an elementary school principal. Teaching elementary school children is an enormous task and responsibility. While a certain degree of intelligence is necessary in order for children to be able to learn, it is probably more important to develop a more positive self-concept and high self-esteem in order to succeed. At Ringgold Elementary everything revolves around this philosophy. All students will be treated with dignity and respect, and no student will ever be humiliated or embarrassed. All the staff has also adopted this philosophy because they are also treated this way. The more success they experience the better their self-concepts.

I am the principal of the same elementary I attended as a fifth grader. As a matter of fact, my fifth grade teacher was still teaching at this school when I became principal last year. It felt strange to have to supervise and evaluate her. She retired at the end of last year. My office is located right under my fifth grade classroom, and I would never have imagined that I would become the principal here.

Migrant children and those who live in poverty have special needs which need to be specifically addressed. However, these children are human beings just like all the other children. They have the same basic needs. These children need to feel loved and wanted like all other children.

They also want to be treated fairly, with respect and dignity and not to be made to feel inferior for their uniqueness. We have a very successful program, and many people have called me to ask if our program design is in writing. They are looking for something that can be easily replicated and implemented. My response to them was that what we do here is not something that can be put on a piece of paper and done on a step by step basis. What we do here is from the heart, all children respond to this whether they are migrant or not.

Our program has been successful because we genuinely care about all the children. All decisions are based on what is best for them. We have implemented a variety of programs which have been very successful. Our creative use of technology (computer labs) has greatly impacted student achievement. Our school scored well above the state average in (81% in writing, 87% in reading, 98% in math) the Texas Assessment of Academic Skills (TAAS). We have changed the paradigm. We have shifted from remediation to enhancement and enrichment for all students. As a result of this, expectations were raised and all students responded accordingly. Ringgold Elementary's enrollment is 562, and 40% of these children are migrant. Test scores show that the number of migrant students who passed the TAAS has doubled the past two years has doubled at this campus. I am sure that there are other factors which have contributed to our success. However, when students feel that they are really important, success is almost certain. All the research indicates this.

Our program has certainly proven that technology (computers) is an effective teaching tool. Education for migrant students must include this component at all grade levels.

Parents of migrant children must become fully involved with their children's education. Adequate parental involvement programs must be established. There are no better advocates for these children than their own parents.

Much emphasis and effort has been placed on secondary migrant programs nationwide. All of us know that intervention is much more expensive than prevention. Secondary migrant programs are providing invaluable services in order to help students graduate. The effort to provide these necessary services must continue. However, a more serious effort to assist migrant students in early childhood, elementary, and middle schools would be much more effective in the long run.

STATEMENT OF ROBERT A. WILLIAMS
FLORIDA RURAL LEGAL SERVICES, INC.
TO THE COMMISSION ON SECURITY AND COOPERATION IN EUROPE

April 8, 1993

Introduction

For the last 17 years, I have worked as an attorney for Florida Rural Legal Services, a federally funded legal services program which provides free legal advice to farmworkers and other poor people in a thirteen county area in south-central Florida. During my years as a legal services attorney, I have seen many instances in which our legal system has successfully responded to the plight of migrant farmworkers. I have also seen many examples of widespread disobedience to legislative and judicial decisions, cynical nonenforcement of protective legislation, and the domination of the legal and administrative process by special interest groups. When one examines the United States' policies toward migrant farmworkers, it is clear that the protections which our laws provide are more theoretical than real. We have many laws and regulations which are supposedly for the protection of migrant workers, but the reality of the fields is something entirely different.

Today, I wish to discuss how the United States might better live up to its obligation under the Helsinki Accords to promote "equality of opportunity in respect of working conditions . . . for lawfully residing and working migrant workers." Initially, I would like to focus on a relatively small subset of the farmworker population of the United States -- the foreign workers who enter each year under the H-2A program -- and then speak more generally about the situation of migrant workers throughout the United States.

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Additional Protections for H-2A Workers

About 25,000 jobs are filled by H-2A workers each year, in apples, sugar cane, tobacco, and sheepherding in the West. They are true trans-national migrants; if any workers in the United States are protected by the Helsinki Accords, they are. And, our government through the Department of Labor, in theory regulates every aspect of their employment in this country. One would expect that the U.S. would certainly be in compliance with respect to these workers. However, all too often, the Department of Labor has been slow or done little to enforce the laws and regulations which protect these workers.

During the last six years, FRLS together with the Farmworker Justice Fund has been involved in a major effort to improve the lives of the sugar cane workers in south Florida. I believe that a great deal of progress has been made. We have just completed the first season under a new pay system at the U.S. Sugar Corporation, the largest H-2A employer in the United States, and are satisfied that the wages and working conditions there are in compliance with the Department's regulations. While I think we have demonstrated that it is possible to achieve decent wages and working conditions for H-2A workers, there remain serious obstacles to reaching this objective.

One example of the legal barriers to securing equal treatment faced by H-2A workers is a case which arose out of a labor dispute at another sugar company. In 1986, workers at the Okeelanta Corporation, unhappy about their pay, attempted to protest by staging a work stoppage. The police were called and K-9 dogs were used to roust the workers from their barracks. 353 workers were immediately repatriated without any hearing or process. Subsequently, DOL Wage and Hour investigators found that the workers' hours of work had been seriously under-reported and that as much as $1,000,000 in back wages was owed the workers. However, DOL took no action and kept its investigation secret. In 1989, the Secretary of Labor informed the House Education and Labor Committee that no violation had been found. DOL acted only after the investigative report was brought to light by the House Education & Labor Committee. Six years after the event, DOL began an enforcement action which a DOL administrative law judge recently dismissed as untimely. Thus, our government utterly failed to protect these workers' rights. This is not an isolated instance. Over two years ago, I filed a complaint regarding a serious violation of an H-2A worker's contract with DOL and still no action has been taken even though I understand that the investigation substantiated the complaint. DOL has yet to take any enforcement action to recover hundreds of thousands of dollars in unreimbursed transportation expenses which it has known about since 1989 despite the prompting of both the House Education & Labor Committee and the GAO.

Where DOL is unwilling or incapable of protecting workers, it becomes all the more important that the workers have access to the courts to redress their grievances. The Migrant and Seasonal Agricultural Workers Protection Act does provide that workers may enforce their working arrangements with their employers; however, H-2A workers are specifically excluded from its protections. In the case I described, a U.S. District Court subsequently ruled that while U.S. workers may have an implied cause of action to enforce the DOL regulations which protect both

H-2A and domestic workers, the H-2A workers had no such remedy and were thus relegated to whatever remedies they might have in state court. To me, the treatment of these workers under our laws clearly violates the spirit, if not the letter, of the Helsinki Accords.

I have two specific recommendations to make with respect to the H-2A program:

- The exclusion of H-2A workers from the Agricultural Worker Protection Act should be removed. H-2A workers should be permitted to enforce their working arrangements on the same terms as other workers. The AWPA reform bill introduced by Congressman Miller does this.

- Because H-2A workers' visas only permit them to work for a specific employer for a limited period of time, and do not provide for any right to employment in future seasons, H-2A workers are even more vulnerable to retaliation than other migrant workers. Currently, DOL regulations prohibit retaliation -- for example, a worker cannot be fired in mid-season for making a complaint to DOL. However, H-2A workers are universally concerned not just about whether they will keep their job this season but also whether they will be requested back in future seasons; and at present, that decision rests solely with the employer. U.S. workers by contrast, at least must always be given preference over H-2A workers, and thus have a limited right to future employment in the H-2A context. I believe DOL could provide by regulation that an H-2A worker who successfully completes the season should be given preference in future seasons subject to the job opportunity being available and the absence of qualified U.S. workers.

Eventually Congress may wish to consider giving resident status to H-2A workers who have worked a certain number of years in the United States. The Helsinki Accords state that the participating countries will take effective measures to promote equality of opportunity and "adopt appropriate measures that would enable migrant workers to participate in the life of society of the participating States." I think Congress sought to do just that by creating the Special Agricultural Worker ("SAW") program as part of the Immigration Reform and Control Act of 1986 which legalized over 1,000,000 foreign agricultural workers. One group of workers- the H-2 sugar cane cutters- were excluded from the program, not by Congress, but by a decision of the Department of Agriculture. Over 8,000 workers who applied under the SAW program were thus deprived of their dream of becoming U.S. residents. I strongly concur in the recommendation of the Commission on Agricultural Workers that these workers be given resident status.

The Need for Increased Enforcement

Turning to the question of the general situation of migrant farmworkers in the U.S., one cannot overemphasize the findings of the Commission on Agricultural Workers that for many workers, real earnings and working conditions have deteriorated since the passage of IRCA.

It is time to end the exclusion of farmworkers from the protection of our labor laws. Sometimes, as is the case with collective bargaining and the fundamental right to engage in concerted activity, that exclusion is explicit; in other instances, such as the case of AWPA and the H-2A workers, the exclusion is based on one's immigration status. Too often, the exclusion is created by bureaucratic inaction and indifference. Consider, for example, the Occupational Health and Safety Administration. Agriculture is known to be one of the most dangerous occupations yet OSHA has made only token efforts to improve farmworker safety. While all other workers currently have a right to information regarding toxic substances in the workplace under OSHA's hazard communication standard, OSHA has ceded jurisdiction over farmworkers and pesticides to the EPA which so far has failed to issue final regulations. Thus, only farmworkers, who daily risk exposure to known carcinogens, are denied the right to know what toxic substances are being used where they work.

Where statutory protections exist, we often have a regulatory structure that seems designed to fail. I think that the single greatest barrier to achieving higher labor standards in agriculture is the crewleader system which in effect creates a giant loophole in every protective statute. For example, although we know that there is rampant underreporting of wages for purposes of social security and unemployment taxes which puts thousands of migrants and their families in economic jeopardy, we persist under our tax laws in treating the crew members as the crewleader's employees unless there is a written agreement designating the crew members as employees of the grower. Predictably, tracking down delinquent crewleaders has proved to be a hopeless task. It is true that farmworkers have some protections under the Agricultural Worker Protection Act not available to other workers. Unfortunately, that act has never been fully or effectively enforced, nor will it be until the Department of Labor shifts its enforcement strategy from the much-maligned farm labor contractors to the agricultural employers who utilize their services. I believe the past twenty years have abundantly demonstrated the futility of attempting to secure basic job rights for farmworkers by regulating the activities of thousands of individuals who in most cases are poorly educated, ill-informed about their responsibilities and financially irresponsible. In Florida, there are nearly 5,000 labor contractors, with a 20% turnover every year. It is unrealistic to think that revoking 20 or so licenses a year has any effect on a system when at the same time, 1,000 new contractors are entering the labor market.

In order to change a culture which seeks to put the blame for every problem on the crewleader, any change in policy must send a clear message that the grower is now to be held accountable. For this reason, I fully support the approach taken in the Miller bill which proposes to hold the growers strictly responsible for the actions of their labor contractors. The goal is not more fines, regulations, and litigation, but a fundamental change in behavior. We want agricultural employers to take the responsibility for the day-to-day management of their workforce away from the crewleaders, majordomos, and contractistas and see themselves and not the crewleaders as primarily responsible for ensuring that their workers received all the protections and benefits mandated by law. The present approach based on the joint-employer concept does not go far enough; the use of labor contractors is becoming more, not less, frequent. A clear statement of national policy is needed.. If we can close the crewleader loophole, we will have taken a major step toward securing equal employment rights for this nation's migrant farmworkers.

NATIONAL
COUNCIL OF
AGRICULTURAL
EMPLOYERS

STATEMENT OF SHARON M. HUGHES

EXECUTIVE VICE PRESIDENT

NATIONAL COUNCIL OF AGRICULTURAL EMPLOYERS

BEFORE THE

COMMISSION ON

SECURITY AND COOPERATION IN EUROPE

WASHINGTON, D.C.

APRIL 8, 1993

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Statement of Sharon M. Hughes
Executive Vice President
National Council of Agricultural Employers
Before the
Commission on Security and Cooperation in Europe
Washington, D.C.
April 8, 1993

I appreciate this opportunity to testify today on behalf of the National Council of Agricultural Employers (NCAE). My name is Sharon Hughes. I am the Executive Vice President of the Council.

It is my understanding that I am the only grower representative to have appeared before this Commission. I am proud to have been invited since I believe most growers have a good story to tell. Agricultural employers are very concerned about the working and living conditions of farmworkers. We commend the Commission for exploring these issues and look forward to working with you on developing recommendations for further improvements.

Growers and agricultural associations have a history of working with federal, state, and local bodies to develop programs and laws to serve and protect agricultural workers. NCAE worked hand in hand with Members of the House and Senate, farmworker advocacy groups and the Reagan Administration to gain passage of the Migrant and Seasonal Agricultural Worker Protection Act (MSPA). The Council worked in good faith with the Environmental Protection Agency (EPA) during its development of the new worker protection standards for pesticides. NCAE is now working with EPA in several focus groups to develop implementation plans, guidance documents and training materials to educate growers and workers alike on the requirements of the new standards.

The Council was also active during the passage of the Immigration Reform and Control Act (IRCA). Currently, NCAE is working with the Department of Justice's (DOJ) Office of Special Counsel for Immigration Related Unfair Employment Practices under an educational grant to educate agricultural employers and agricultural associations on the anti-discrimination provisions of IRCA. For the past two years, our workshops on this topic have been very well received with growers asking for more workshops on other labor issues. As a result of the workshops, compliance with IRCA is higher in agriculture than in most other industry groups.

The Council has supported full funding of migrant education and Migrant Head Start programs. A number of our member companies are working with these migrant programs to set up day care centers and educational programs in their areas. For instance, A. Duda and Sons in Florida donated land and money for day care and Head Start programs at two of its farming operations with over 100 children enrolled. The day care centers are operated by the East Coast Migrant Head Start Program. A. Duda and Sons also contributed to day care facilities in other parts of Florida run by the Redlands Christian Migrant Association.

The Council also has member companies working with the migrant health programs to set up health care clinics such as the one in Winchester, Virginia. The Frederick County Fruit Growers Association, along with the Winchester Region Migrant Services Council and the Shenandoah Community Health Center, worked to establish a "satellite program" to provide health care to migrants in the Winchester area.

As part of my presentation, I would like to show you a short video which depicts the strides that growers have made in Florida to better the conditions of farmworkers since the 1960 "Harvest of Shame" report by Edward R. Murrow. The video was produced by the Ag Institute of Florida and compares the 1960 conditions with conditions today. Agricultural employers and agricultural workers tell their own stories in the video. The video shows the improvements made in Florida. Other states with high concentrations of migrant farmworkers are following Florida's lead.

While it is true that conditions are improving for farmworkers, further steps need to be made. Migrant service programs need to be enriched. Full funding is necessary for migrant education, Migrant Head Start, migrant health care and farmworker opportunity programs.

In order to accurately and effectively fund these programs, data collection on farmworkers needs to be improved. Different government agencies use different statistics to calculate the number of farmworkers in need. Some statistics count casual laborers in their totals. Some count all agricultural jobs and ignore the fact that the same worker may be filling several of those jobs at different times of the year. Earnings and unemployment statistics are skewed as a result. To more effectively serve this community, everyone needs to be talking from the same data with accurate counts of the number and locations of farmworkers at any given time of the year. Accurate data will allow for the targeting of resource dollars and the targeting of enforcement efforts.

Which brings us to another area which would help protect the rights of farmworkers. Additional efforts need to be made to educate the farmers and growers on the existing laws and regulations regarding employment of farmworkers. The DOJ is making an effort through its grant program to educate growers on IRCA and has had positive results. EPA is slowly realizing that in order for the worker protection standards for pesticides to effectively protect the workers, growers will need to be fully educated on what is required of them.

The Department of Labor (DOL), however, has done little to educate growers on the requirements of MSPA, the Fair Labor Standards Act (FLSA) or the Occupational Safety and Health Act (OSHA). Growers instinctively turn to the Cooperative Extension Service for information about these and other laws. The

Cooperative Extension Service, however, does not see labor issues as a priority. Their mission is to provide information on agricultural production.

The larger agricultural employers are able to hire human resources professionals to keep track of the myriad of labor laws which apply to agriculture. The smaller employers cannot, and, therefore, have to fight an uphill battle to be kept up to date on not only all aspects of production, marketing, distribution and trade issues, but also their obligations under the labor laws and regulations. These growers would greatly benefit, and farmworkers through them would benefit, from an orchestrated effort at the federal level to keep growers abreast of these statutory requirements. An educational grant program such as DOJ's IRCA project would go far to insuring that growers are in compliance. Enforcement actions are only effective after the harm has been done. Educational efforts would help to prevent the harm in the first place.

But, while improvements can be achieved through programs and efforts such as all of those mentioned above, these efforts only treat the symptoms of the core problem. To get at the core problem, we must have improved job placement across state lines to afford workers longer and more stable employment. Either through improving the existing federal employment service, as was done in Texas, or by instituting new job placement services through the 402 farmworker opportunity programs, farmworkers need to be better matched with available jobs. Many of the improvements A. Duda and Sons was able to provide for its employees are a result of their effort to introduce their crew leaders to reputable employers in other parts of the country. These growers now utilize the crews during Duda's off-season. The workers have more continuous employment and Duda and the other growers are assured of a more experienced, dependable labor pool.

We can continue to improve migrant services.

We need to improve data collection at the federal level in order to properly direct funds and enforcement efforts.

We need to educate all growers on their responsibilities under existing labor laws and regulations.

We need to end the adversarial relationship between growers and farmworker advocates.

But, all of these things will not bring stability and appreciable change to the farmworkers until we begin to better match jobs to workers through an effective employment service.

Thank you again for the opportunity to speak to you this morning. I will be happy to answer your questions or provide you with any additional information you may need.

Ag Institute of Florida
Migrant Labor Video Script

"This is CBS Reports -- Harvest of Shame. It has to do with the men, women and children who harvest the crops in this country of ours, the best fed nation on Earth. These are the forgotten people, the underprotected, the undereducated, the underclothed, the underfed. We present this report on Thanksgiving because were it not for the labor of the people you are going to meet you might not starve but your table would not be laden with the luxuries that we have all come to regard as essential."

How much has changed since Edward R. Morrow aired this report in 1960? Migrant labor is still largely responsible for the cultivation and harvest of the nation's fresh fruits and vegetables. In Florida alone, 35,000 migrant workers pick a majority of the state's crops which encompass over 1 million acres, worth $3 billion.

But while today's migrant worker completes basically the same tasks of a migrant worker in Morrow's time, that is where the similarities end. "Harvest of Shame" was a "wake-up" call to the nation's agriculture industry and government leaders. Many key pieces of state and federal legislation were passed which gave migrant laborers newfound rights and protection.

Today, agriculture is regulated just like any other industry with regard to:
- Unemployment Compensation
- Workers' Compensation
- Fair Labor Standard (governs minimum wage)
- Social Security

Video **Audio**

In addition, the Migrant and Seasonal Agricultural Worker Protection Act (MISPA) strictly regulates those in agriculture who employ migrant workers. The penalties for noncompliance with these federal regulations are severe, and in some cases criminal.

Today's migrant worker finds much better working conditions and housing in Florida than did his 1960s counterpart, plus more daycare, and educational opportunities than ever before. But don't take our word for it. See for yourself.

"Tell us, there's some straw over there, what's it for?" "Well, that's what they brung us to sleep on." "Weren't mattresses supplied here?" "They used to be, but they ain't now." "Mrs. Blakely, where's the water supply over here?" "Right there." "For how many people?" "This and that over yonder...we all use the same." "Well, how many bathrooms are there here?" "Nary a one." "Where do you use the bathroom? Where are the facilities?" "We don't have one."

"And what kind of house do you have here?" "What kind of house? We have a good house.. we have a fine house. Anytime anyone wants to go out there they can go out there. The best thing... you don't have no water bill and no rent to pay. It's a fine place."

"I live in one of the company houses here, in one of the block homes. It's very comfortable and, you know, and no shacks here. If there were, you know, I wouldn't be here. At least not 21 years."

Those migrants who live in housing provided by the agriculture industry enjoy clean, comfortable accommodations which routinely pass all regulatory inspections.

"It's a beautiful place to live."
"And what kind of housing is available?"
"Well, there are one-bedroom, two-bedroom and three-bedroom apartments And they have everything in it."
"Completely furnished?"
"Completely furnished."
"And how much was rent for something like that?"

'Okay, for one-bedroom it's $40 per week, for a two-bedroom it's $45 and for a three it's $55.

A large supply of acceptable housing is also available through the various agriculture housing authorities located across South Florida. Although these facilities are not owned by growers, the ag industry served as one of the catalysts for the birth of these authorities.

David Lowe talks with Mrs. Doby, 34-years old, mother of nine children.
"Who works with you out of this family here?"
"Everybody, except the baby."
"Who takes care of them in the fields?"
"Well, they just kind of stay along with us or take of themselves, and the one that can't walk usually stays in the baby buggy."

"How did the daycare help you while you were working?"
"They helped a lot because, you know, we take them in the morning, you know, before we start to work, and whenever my wife gets off work earlier than I, she comes and just picks up and just brings it home."
"And did that help you while you were working?"
"Oh, yeah, because we don't have to worry because they got somewhere special that take care of kids. It's grea.t"

Video **Audio**

Today, migrant parents receive a lot more than just "babysitting services" for their children. Numerous daycare facilities have been established in conjunction with the Federal Head Start Program aimed at giving children most at risk a "head start" toward an education.

"The big thing nowadays in education is drop-out prevention. And more and more we realize, that more and more the time to prevent drop-outs is at pre-K level."

"We've seen a lot of progress in these children that we have in our program. Because we have, we think kids going real low and their grades, but we get the report cards again and some have really improved in which parents are really greatful they have this extra help for their kids and uh, they've seen a lot of progress."

"Like, the scholarship program with the company helped my daughter in school, you know, the scholarship plan.

"So as a company, why is it important for you to have a good relationship with your employees?"
"Look, we're like any employer, and if our workers don't want to work here, they can go somewhere else, and we've got a task to get done. "We've got to plant and to grow and to harvest, and we need them to be here, you know, we need workers available when those times come, and hopefully they want to be here, so we want to treat them the way we want to be treated. I don't think the company would run very well if we decided to walk off three days before harvest either, so we want them to be happy here and hope it's a good place to work. As long as they're doing their job and doing it well we want to stay out of their face. Just do your job and we won't hassle you."

"So as a business man, why is a good relationship with your employees important?"
"Well, just like any other business, you have to have a good relationship with your employees because you have to have the availability of the workers, and it's better for them as well, because we're providing a very nice place for them to stay at a low cost."

"My father, he used to work here, a long time ago."
And he liked it enough that you came back to the same company to work?"
"Yes, maam."
"Now why is it you wanted to work for the same company your father did?"
"You know, they pay, and you know, they treat you right.. And everything's all right."

"Would you say that your workers earn a fairly good living or a decent living to feed their families?"
"I believe so, you know, and again, you have to remember about agriculture and mother nature. When we have a good season, for example, last year the company was able to move a lot of packages. Even though it was not a profitable year for the vegetable division, it was a profitable year for the employees who came to work for us. They probably had one of the best seasons they've had in the last four to five because we had real good weather and the crop looked good. The prices weren't there, but the employees were able to earn a real good living."

"And what is the average wage the workers are earning on your farm?"
"Well, during the tomato harvest, through from beginning to end, the average picker probably makes somewhere between $9 and $11 an hour. Probably when they're picking oranges, you know, a good picker's making between $6 and $8 an hour, and he's also getting free housing."
"So what does that work out to be for an annual salary?"
"Well, again, you know, among our full-time employees that are here, they're probably making in the range of $18,000 a year. Among the ones who are coming here just for harvest, that type of thing, I haven't really done that calculation on the time that they're here. I would say that the average paycheck is $200 a week, plus they're getting free housing."

"And what is the average wage of your worker on your farm?"
"Well, it's all on piece rate. The average worker can make anywhere from $350 to $500 a week."

"Is there any other type of benefits that your company offers migrant workers?"
"Yes, we have a real good, uh, benefit package. Medical insurance, hospitalization insurance. We have a cafeteria plan which they can elect one of those plans depending on their needs or what they can really afford. We also have what we call paid vacation, and this is based on seniority and attendance. If the employees qualify or work 90 percent of the time there's work available or more, a first-year employee will be entitiled to 2 percent, second-year 4 percent, 10-year employee 6 percent and then20-year employee 8 percent of their earnings. We also have paid-holidays, retirement plan, life insurance, 401-K contribution.

"Well we have health insurance plans, it's their option, they can take it if they want it. And it they've been here one year with us, they become eligible for the 401-K program. And they can put in so much money per month, taken out each week, and then the company usually will match a percentage of that. And that varies from year to year on what that match will be."

"Would you say you're more progressive for an agricultural company or is this becoming the norm across the board?"
"I think that the big companies, the ones that are going to survive the consolidation that's going on in the

industry, I think we're competitive with them. I don't think we're all that unusual. I think we're a little unusual in that we have an owner with a little bit broader base that all their land isn't here in Ruskin or even her in Florida. From that standpoint we're a little bit more diverse and stable financially. But in terms of what we're doing versus other people in the community, I think that the trend is more toward what we're doing not away from it."

The past 30 years of migrant housing...daycare...and education have not been another "Harvest of Shame" but a "Harvest of Gain" for Florida migrant workers and the Florida agriculture industry.

This message brought to you by the Ag Institute of Florida.

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Immokalee

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Patrick Leary, President and General Manager
SunAg Corp.
Fellsmere

Tom Morgan, Director of Communications
A. Duda & Sons, Inc.
Oviedo

Edward R. Murrow, Commentator
"Harvest of Shame" 1960 Production
CBS

David Rodriguez, Personnel Director
South Bay Growers
Belle Glade

Jim Sheffield, Citrus and Harvest Manager
SunAg Corp.
Fellsmere

Don Sleight, General Manager
Deseret Farms
Ruskin

Guyla Wise, State Director for Health
Redlands Christian Migrant Association
Immokalee

Dillon Productions
Ocala

My name is Gloria Hernandez. I am thirty eight years old and if Dr. Spomer had his way, I would be dead by now. I am referring to a letter that was sent to Congressman Lehman from a Dr. in Fresno California who advocates going back to 40 years and sending back all illegal aliens and their children to where they came from. He furthermore advocates to execute any illegal alien who enters a second time. See the attached letter.

But since, I am here and Dr. Spomer is back home, I will pretend that his letter does not affect me (or two of my brothers who are Viet Nam veterans or one of my nephews who is a Desert Storm Veteran) and go ahead and testify.

I am honored to be here. I notice I am the only one so far to testify that does not have a title. I hope that does not scare you. Because just my name without a title scares alot of persons in the Valle. The reason I say that is because I have learned that many of the workers feel confident enough to tell their patrones that if they do not pay them they will be forced to face me. My business cards go so fast, the clericals can't keep up with ordering enough of them. I don't know which is worst, being the Cuku spanish for boggyman or not getting the statistics of solving cases.

I am here to talk about empowering a community. A community to me can be anything from a pueblo or a case that involves 130 to 300 men. What does power mean? To me power means losing the fear to take on what you believe in. I believe in the United States Constitution. I believe in basic human rights. I believe in justice for all. And because I believe in these things, I have gone to jail, I have given up my youth and fought for the things I believe in. I have been advocating for farmworkers rights since I was sixteen years old.

I am a product of the farmworker/ bracero program. My father entered as a bracero and married a Texan. We migrated all over the US until we settled down in Parlier California. The community of Parlier is a powerful community who cares about the farmworkers. Why.....? because both our city council and school board members were once farmworkers. I won't speak about Parlier because that is what Arcadio does best, that is why he is mayor!

Since I began working for CRLA, I have done alot of maturing. I am no longer angry at the system. I have learned to share the anger. And by doing so, I have learn to be powerful. And not just by being the Kuco, but by sharing simple knowledge with people. To have knowledge is power.

I am currently working with a comite in Farmersville, Tulare County California. The comite consists of seven individuals, two campesinas, four campesinos, and one student advocate. Only one of them speaks English. All are immigrants from Mexico. Two of them are Mexticos and speak their own language apart from Spanish.
A seed was planted when the comite was formed in response to a raid

that took place early morning Nov. 5, 1992. The raid was conducted by the INS and local Farmersville police in houses that were predominately farmworkers, Mexican, Mexticos and families. Since Dec. 22, 1992, the comite has had dialogue with the Farmersville Human Relations Commission to try to reach a resolution on the affects such raids have on the community. On Monday the tree was beginning to bend, the dialogue stopped and the comite walked out because the HRC was recommending to the city council that the use of local police force should be allowed to cooperated with the INS in investigations. When asked what is the difference between an investigation and a raid, one commissioner stated it was a personal perfrence of words.

Now I ask myself, what empowerment did the comite accomplished after four months of endless meetings? The answer clearly was not the creation of a local ordinance to stop the local police from cooperating with INS, no, the answer was that out of the original six members, two saw the light and voted for resolution. Now if we can change two persons feelings, there is hope that others who live in Farmersville will come around. The tree will grow straight!

In 1979, I visited the community of Kettleman City. While conducting outreach, I learned that a toxic waste dump had been allowed to be placed in the hills near Kettleman City and the campesinos did not know what it was. I arranged for a field trip on a Sunday and went into the waste land as a translator for the community residents mostly campesinos and their families, who wished to go on the field trip. It was an eye opener. We learned that the company was literally making hills from burying toxic waste from all over the United States. We also learned then, that the company had all of its paperwork in order and we couldn't do anything to stop them, then.

The seed was planted in 1979, I left and forgot about the waste land. But the residents did not! When the company desired to set up an incinerator to burn the toxics, the community reacted! CRLA answered by filing a lawsuit and so far has managed to hold back the incinerator from being build. The tree has grown!

Recently the latest project I am currently involved in is helping campesinas organized a historical event. Several of us mujeres community workers are getting campesinas elect a representative to a campesina gathering we will be holding this summer in Fresno. The project's focus is to bring campesinas we have gotten to meet over the years together and help them share their leadership skills with each other.

I have always admired the leadership las campesinas have demonstrated over the years to me. I mean, how many women do you know can take a budget of about $5,000 to $7,000 a year, feed, clothe and house a family and still have money to travel! If that ain't knowledge what is? No seriously, the women have always had to offer something. And now it is a matter of getting to share it with other campesinas. We hope that at the gathering, the women will be able to draw up solutions to the problems that they confront every day of their lives. A tree has sprung new life and hopefully we can allow the tree to grow.

As you can see in my minds eye, I see trees growing everywhere. I see the Helsinki Commission, taking on more trees and making certain that the trees grow big and straight. As a litigator paralegal, I can only say to the growers and contratistas who say farmworkers have deep pockets attorneys provided by free legal services, Honey, you keep me working, stop misbehaving and I won't have a job.

A little side note, always the tree planter that I am, do you think, someone can have some compassion for all the migrant farmworkers who come, get abused in the United States and die on the streets, fields, towns here, and pass a bill that could help send the bodies home. I am dehydrated of the many tears I shed on behalf of all the young men who die here for following a crazy dream, the AMERICAN DREAM. Please support HR 1173 and bring some justices to the fields of this nation.

THE FARMERSVILLE CITY COUNCIL RESOLUTION URGES RESTRAINT BY THE FARMERSVILLE POLICE DEPARTMENT IN ASSISTING THE IMMIGRATION AND NATURALIZATION SERVICE

1. WHEREAS, The United States supported the United Nations' adoption of the Universal Declaration of Human Rights, which commits member countries to recognize and observe basic human rights; and,

2. WHEREAS, The United States Senate in 1992 ratified the International Covenant on Civil and Political Rights implementing the Universal declaration of Human Rights, which reaffirms the right to liberty and security of persons and that no one shall be subjected to arbitrary arrest or detention: and,

3. WHEREAS, the City of Farmersville has a diverse cultural heritage and multi-national population of which the City is proud, and has historically welcomed newcomers; and,

4. WHEREAS, Hundreds of Hispanics and Indigenous families have settled in Farmersville and are making significant contributions to the well being of our City; and,

5. WHEREAS, the City believes that all persons, regardless of sex, race, age, religion, color, citizenship and immigration status, or disability should have the right to protection and service by the Farmersville Police Department; and,

6. WHEREAS, in the past the Immigration and Naturalization Service (INS) has conducted broad scale sweeps without specific warrants, through communities or parts of communities, often with

the participation of local law enforcement, in an attempt to locate any individual subject to deportation or other immigration proceedings; and,

7. **WHEREAS**, these raids directly affect many law-abiding persons within our community and especially those of Hispanic and Indigenous origin; and,

8. **WHEREAS**, the city strongly opposes raids of this type especially when directed at specific individuals or not involving criminal activity; and,

9. **WHEREAS**, The Farmersville City Council has limited financial resources and personnel in its Police department with which to carry out its mandated duties pursuant to the laws of the State of California and the Farmersville City Code; and,

10. **WHEREAS**, The City is willing, within the limitation of its resources and personnel to cooperate with other law enforcement agencies in the legitimate enforcement of laws both state and federal;, and

11. **WHEREAS**, The Attorney General of the State of California and the 9th Circuit Court of Appeals, in Gonzalez v. City of Peoria, have concluded that the enforcement of the Civil provisions of the immigration law is within the exclusive jurisdiction of the federal government, and that the local and state officials have no duty to report to the INS knowledge that they might have regarding a person's immigration status, and further, that their failure to report does not constitute any violation of the law; and,

12. WHEREAS, the City does not want any of its residents to fear contacting the Police Department when they report or witness crimes because they fear being reported to the INS; and,

13. WHEREAS, the City Council wishes to declare their desire not to expend limited City resources in gathering or disseminating information concerning the immigration or citizenship status of those residing in the City of Farmersville nor to assist in the investigation of alleged civil violations of the federal immigration law;

14. BE IT RESOLVED the Farmersville City Council declares it to be the policy of the City of Farmersville that no department or employee of the City will assist or cooperate with any INS investigation, arrest or, detain, public or clandestine, relating to the alleged violation of the civil provisions of the immigration laws; and be it further;

15. RESOLVED, that No city department or employee, will request or disseminate information concerning the immigration status of any individual seeking or using city services or benefits or condition the provision of City services or benefits upon immigration status unless required to do so by statute, federal regulation or court decision; and be it further;

16. RESOLVED, that all applications, questionnaires and interview forms used in relation to City of Farmersville benefits, opportunities or services shall be promptly reviewed and any question regarding immigration or citizenship status or other than those required by statue, federal regulation or court decision,

shall be deleted within (60) days of the date of this resolution; and be it further

17. RESOLVED, that the people of Farmersville, the Mayor, City Council and Human Relations Commission will work closely with the sponsors of this resolution to develop other guidelines, instructional and educational materials regarding the resolution and to review the compliance of City departments and employees with the mandates of this resolution.

Submitted by the Farmersville Unity and Justice Committee to the Human Relations Commission this 5 of April, 1993.

UNIVERSAL DECLARATION OF HUMAN RIGHTS

"Every person as a member of society has the right to social security and the right to obtain by means of national effort and international cooperation, equality of the account of the resources of each state, the satisfaction of the economic rights, social and cultural, indispensable to their dignity and a free development of their personality".

HRC Recommended Resolution

1. All persons, regardless of race, creed, color or citizenship status should have the right to equal protection by our Police Department.

2. We do not want anyone to fear contacting our Police Department when they are in need of help because they fear being reported to INS.

3. Our Police Department should not in any way initiate INS involvement because of information they might inadvertently learn when on an investigation.
    - *unless someone is arrested, charged and convicted of breaking the law. (misdemeanor or felony)
    - *our Police Department would be able to report to such agencies as CPS, the Department of Health, et'c, if necessary.

4. At times our Police Department does receive calls from the community that do involve the citizenship status of others. When this happens, our Police Department should refer ~~these~~ the complaints to INS.

5. It would appear from the information we have been given that if INS does find the need to investigate a criminal complaint that it is up to the individual city whether or not the local Police Department will participate.

6. We have no problem with the Farmersville Police Department's particiation in INS investigations as long as they are done legally with proper warrents, et'c.
    - * In such investigations INS should be in charge and direct our local force as to where and how they deem necessary.

7. It could be that in small cities like Farmersville that local police assistance could be a great asset as far as preventing legal citizens from accidently becoming part of an INS investigation simply by the fact that in small cities, like ours, much of the time we tend to know who belongs there.

    Also, since all law enforcement dollars, regardless of the branch of service involved, ultimately come from the taxpayer, local cooperation between the different services can save tax dollars in the long run.

The Human Relations Commission would reccommend that our City Council, with the advice of our City Attorney, ~~would~~ write an ordinance that would give equal protection to all who live here without fear of INS investigation, but that does allow our local Police Department to assist in proper, legal, INS investigations.

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& Economic)

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